



# **The Jewish Contribution to the European Integration Project**

**Centre for the Study of European Politics and Society**

**Ben-Gurion University of the Negev**

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# Welcoming Remarks

Dr. Sharon Pardo

On behalf of the Centre for the Study of European Politics and Society and the Department of Politics and Government, it is my great honour and privilege to welcome you all to Ben-Gurion University of the Negev.

Last year when we discussed Europe Day, we at CSEPS, decided to celebrate this year's Europe Day in a unique and original way. We decided to embark on a new project that will examine and discuss the Jewish contribution to the European integration project.

I admit that when we thought of the theme of this workshop, which from now on will be an annual event, we had in mind Milan Kundera's famous 1998 essay on "The Tragedy of Central Europe" in which Kundera suggests that no other part of the world was as illuminated by Jewish energies as was the centre of Europe. In Kundera's own words:

*"Aliens everywhere and everywhere at home, lifted above national quarrels, the Jews in the twentieth century were the principal cosmopolitan, integrating element in central Europe: They were its intellectual cement, a condensed version of its spirit, creators of its spiritual unity."*

Such iconic Jews were viewed by some as representing Europe's first supra-national and multicultural entity and, from the nineteenth century onwards, were depicted as the essence of "Europeaness", consisting of cosmopolitanism, anti-nationalism and the principles of the liberal order.

Hannah Arendt, the controversial German-American political theorist even went further in her 1968 book "Men in Dark Times" and depicted the Jews as "Europe's Chosen people" – in her words:

*"The position and functions of the Jewish people in Europe predestined them to become the "good European" par excellence. The Jewish middle classes of Paris and London, Berlin and Vienna, Warsaw and Moscow were in fact neither cosmopolitan nor international, though the intellectuals among them thought of themselves in these terms. They were*

*European, something that could be said of no other group."*

Yet were such Jews really cosmopolitan, international and European? Were they Europe's Chosen people, the heroes of the European integration project, and if so what does it tell us about the founding fathers of the European integration project and their imagined community today? It appears that Jews have, or at least had, a lot to live up to in Europe. What happened to the Jewish contribution to the European integration project? What happened to such Jewish Europeans? Did they all go in a puff of crematorium smoke?

The Jew has always been deemed to have competing loyalties and affiliations, being a member of a religion, an ethnic group, and even at one point a 'race'. To the extent, therefore, that the European integration project is creating a similar crisis at the heart of European citizenry, today all Europeans are, in some metaphorical sense, Jews.

Interestingly enough, this metaphorical sense is not lost on EU leadership, who often speak of the need to learn from the history of European Jews and draw on European Jewry as a model for emulation within the EU. As Romano Prodi, former President of the European Commission and former Italian Prime Minister has put it:

*"I believe we can learn a lot from the history of the Jews of Europe. In many ways they are the first, the oldest Europeans... We, the new Europeans, are just starting to learn the complex art of living with multiple allegiances – allegiance to our home town, to our own region, to our home country, and now to the European Union. The Jews have been forced to master this art since antiquity. They were both Jewish and Italian, or Jewish and French, Jewish and Spanish, Jewish and Polish, Jewish and German. Proud of their ties with Jewish communities throughout the continent and equally proud of their bonds with their own country."*

In fact, the EU leadership views European Jewry as somehow the constitutive minority of the Union,

despite or rather precisely because the most patently historical link between the European project and European Jewry is the Second World War. After all, the EU was born out of the atrocities of the past as an effort to reconcile the religious, cultural and linguistic differences of Europe.

Moreover, to the extent that religious tensions continue to affect the European space, the EU leaders expect the Jewish communities to take a central role in improving and promoting inter-religious and inter-community relations in the EU. In practical terms, this means an expectation that European Jewish communities work to improve their relations with the Muslim communities in all EU Member States, and that Jews living in the EU Member States broaden their struggle against anti-Semitism to include other categories of racial and religious discrimination, including of course Islamophobia.

Another expectation that the EU has from its Jewish communities regards Israel. The EU views the Jewish communities as a broker that brings it closer to Israel, or in another words, as a bridge between the EU and Israel. EU leadership expects the Jewish communities to assist the EU institutions in cementing the ties with Israel.

Dear friends, when we thought about an original way to celebrate Europe's Day we thought about all these questions and issues which we very much hope will be raised and discussed in our workshop today or indeed in our future workshops on the issue.

So, I would really like to thank all our partners, and above all Michael Mertes and the Konrad-Adenauer-Stiftung and to Ambassador Andrew Standley and the EU Delegation to Israel for joining us on this exploration of the Jewish contribution to the European integration project. Last but definitely not least are you, all our dear speakers who arrived at Ben-Gurion University from all over Europe. Many, many thanks for making it happen.

Finally I would like to thank the team of the CSEPS and especially to Shirley Gordon and Alma Vardari Kessler for the organization.

So I wish us all a fruitful workshop and a Happy Europe Day!

Toda Raba!

# Walther Rathenau, Foreign Minister of Germany during the Weimar Republic and the Promotion of European Integration

Amb (ret.) Hubertus von Morr

Ladies and Gentlemen,

Shalom and congratulations for the 65<sup>th</sup> anniversary of the State of Israel, which was celebrated some days ago. First I would like to thank Ben-Gurion University of the Negev, the Centre for the Study of European Politics and Society as well as the Konrad-Adenauer-Stiftung and especially my friend Michael Mertes for inviting me to this conference.

## I

At a time when the process of European Integration as we have known it and which has developed over the years and decades with its institutional big steps in 1949, 1957, 1992 and 2009, has come under enormous pressure, one may wonder why we talk about a man whose lifespan lasted from 1867 until 1922, a time which seems remote for us today. What can we learn from that time, from Rathenau today?

I admit that my personal interest in Walther Rathenau is connected to a family relationship, although a distant one. But more important was an event which I organized as German Ambassador in Luxembourg (my last post) in October 2011. The title of the conference was: "About things to come - a man ahead of his time". I would like to tell you how that conference came about.

A year earlier, in late 2010, the Foreign Minister of Luxembourg, Jean Asselborn, received a High German decoration; the Grand Cross of the Bundesverdienstorden (Federal Order of Merit). At the intimate dinner which followed the ceremony, the conversation turned to the book *Das Amt* ("The Office") in which some historians accuse the German Foreign Ministry of not only having been deeply involved in National Socialism, but also in having protected Nazis in post-war Germany. Minister Jean Asselborn asked: Did you have Jews in the Foreign Service? And after I replied that we had had a Jewish Foreign Minister, Walther Rathenau, the conversation centered on him. Asselborn's interest was immediately sparked; Rathenau had visited his home town Steinfort in

Luxembourg in 1911, where Asselborn later became the local mayor. German Foreign Minister Guido Westerwelle also showed great political and personal interest in Rathenau, so I offered to organize a conference.

My motives were twofold: first to inform the Luxembourg public, which today knows little or nothing about this great man and his contacts in the Grand-Duchy. And secondly, I thought talking about this great Jewish personality may reduce the bias in Luxembourg foreign politics, which is quite one-sided in favor of the Palestinian cause. You may argue that Luxembourg is a small country. But it is not only very rich; it is also, since January 1<sup>st</sup> 2013, a non-permanent member of the Security Council of the United Nations. And by the way, there is no Israeli Embassy in Luxembourg – which is a mistake. Many opportunities to present the Israeli view on the Middle East are missed.

The Conference was a big success and it received enormous press coverage.<sup>1</sup> I don't know whether it changed foreign policy, but it did shed light on times long ago, and they have a lot to do with the topic of our conference.

## II

Walther Rathenau was born on September 29<sup>th</sup> 1867 in Berlin as the oldest son of Emil Rathenau, who was to become one of Germany's leading industrialists, and of Mathilde, née Nachmann, daughter from a family of Jewish bankers in Frankfurt.

In 1867, Germany was not yet a Nation-State. The Norddeutsche Bund (North German Federation) had just come into being. It was the precursor of the German Reich, the Empire, which was set up four years later. Berlin was the capital of the Kingdom of Prussia,

<sup>1</sup> The records of the Conference were published i.a. by the Literary Supplement of "Luxemburger Wort", "Die Warte" in October 2011 and in No. 21 and 22 of the "Mitteilungen der Walther Rathenau Gesellschaft".

the most important of the German monarchies and principalities which in 1871 made up the Reich. As Emil Rathenau, who himself had studied engineering, made his paramount business career by acquiring the patent for the electric lamp bulb from Thomas Edison, and became founder and CEO of the Allgemeine Electricitäts-Gesellschaft (AEG), it was obvious that Walther would follow in the footsteps of his father. He studied physics, chemistry, mathematics and electrical engineering in Berlin, Strasbourg, and Munich and received his doctorate with a thesis on "The Absorption of Light in Metal" (1889).

In 1892 Rathenau started working in the Aluminum Industry in Neuhausen (Switzerland). In 1893 he became manager of the electrochemical plant in Bitterfeld, which the AEG had founded, and in 1899 became member of the board of directors of the AEG itself. In 1902, he left the AEG for a short interval with the bank of Hans Fuerstenberg, who was a close friend, the Berliner Handels-Gesellschaft, the "home bank" of the AEG, only to join the enterprise itself again in 1904, this time as member of the Supervisory Board. Rathenau became Chairman of the AEG in 1912, and eventually President after the death of Emil Rathenau in 1915. However, since his high school and university years, Walther Rathenau concentrated not only on natural science, but also started painting and writing books, articles, novels and theater plays.

Together with his business career in working with and succeeding his father Emil; with his language skills in English, French, Italian, Spanish and others, he became something like a universal genius. Many of his views expressed in his books and articles were far-sighted, some expressions have become proverbial like "Die Wirtschaft ist unser Schicksal" (Economy is our fate, or in the casual translation of today "It's the economy, stupid!")

Rathenau became acquainted with the intellectual elite not only in Germany, but in other countries as well. He was a friend of many writers, novelists and artists of his time, with whom he had a vivid correspondence. Nine years after his first visit, in September 1920, he returned to Luxembourg, upon invitation of Emile Mayrisch, the CEO of what is today ArcelorMittal, the world's leading steel enterprise. Mayrisch gathered around himself and his wife Aline de St. Hubert, the elite of the time in their home in Schloss Colpach in the Grand-Duchy of Luxembourg, which was an early Davos or Elmau, if you like. There, Rathenau met André Gide, and both men exchanged their visions for Europe.

The elites of their time, in arts, in literature, in economics, yes they were European and transcended national borders. The meeting between Walther Rathenau and André Gide in Colpach was one of the attempts to bring together representatives of economic rationality together with those of a purposeful social life, as the historian Lothar Gall put it. They announce a modernity which draws its intelligence from the technical world and leadership in business. It is anti-ideological and contains something of the "free-roaming intelligence", as the sociologist Karl Mannheim wrote. Similar meetings took place in the Bloomsbury district of London, Berlin-Grunewald or the *Décades de Pontigny* in France.<sup>2</sup>

The ideas were reborn after World War II, if we for example think of John Maynard Keynes, who was a member of the Bloomsbury Circle and who, in Bretton Woods, wanted to create a global monetary system or Robert Schuman, who as French Foreign Minister paved the way for European integration.

But let us return to the beginning: It is no exaggeration to say that the Rathenaus, together with others, were the main contributors to the enormous boom in economy and science in Germany in the late 19<sup>th</sup> and early 20<sup>th</sup> century, which made the Reich – established as a Nation-State only in 1871 – one of the global super-powers in their time.

As an eminent industrialist, Rathenau's business interests already at that time went far beyond German borders. Companies the AEG acquired like Felten & Guillaume – in the steel business – led him to his first trip to Luxembourg in 1911, which I already have mentioned. But this was only one of his trips, actually he was constantly travelling in Europe, the Middle East and Africa, as business leaders of today, with the difference that he mostly spoke the language, knew the countries' history and culture and wrote books and articles about them.

### III

Talking about Rathenau's personality would require a conference of many days, if not weeks. One of the finest books recently published in the English language certainly is Shulamit Volkov's: *Walther Rathenau, Weimar's Fallen Statesman*, Yale University Press. Ms. Volkov's book (she is Professor at Tel Aviv University) has recently been translated into German and has created the usual split reception which is characteristic

<sup>2</sup> "Die Mayrischs und Rathenau", by Germaine Goetzinger, Director of the National Literature Center, at the Conference, op. cit.

for descriptions of Walther Rathenau. I would like to confine myself to agreeing that he was a person seemingly full of contradictions, a torn personality – a Jew with self-hatred and pride, a son of an eminent father whom he wanted to please with working in and for the AEG and be independent of him at the same time; being a person in his own right (which explains his ins and outs at the top of the company), a German patriot and a European far ahead of his time. One may continue.

To his fellow-entrepreneurs he was too universal-minded, the trade unions suspected him because of his six dozen board-memberships, for party politicians he was too independent, for the *bel esprit* too much of this world, for historians he thought too big and wrote too stylishly, was too well-dressed. He was for many or most of his contemporaries too much of a *citoyen du monde* and too successful as an entrepreneur in order not to confuse their image of the world. The reaction was never indifferent; it ranged from admiration to envy and hatred.<sup>3</sup> One of the wittier descriptions of Rathenau was: *Jesus im Frack* (Jesus Christ in White Tie).

#### IV

Walther Rathenau's tenure as a politician was a relatively short one, compared with his career in business and his work in arts and philosophy. In the First World War, he was in charge of procurement of raw material, the KRA (Kriegsrohstoff-Abteilung), but quit. Only after the War, he became Minister for Reconstruction in the cabinet of Chancellor Joseph Wirth, in 1921. In late January of 1922 he became Foreign Minister, an office he held up until the day of his assassination on June 24<sup>th</sup>, when he was on his way to the Ministry.

When we look at Rathenau's opinion and policy with regard to Europe, we have to avoid the mistake to do this with the assumption that today's knowledge or achievements were common in his days. For us in this room, this is obvious, but it is difficult to transmit it to a generation which takes today's achievements for granted or thinks they have always been present.

When last semester I conducted a seminar in Bonn on European integration and the problem of democratic deficit, we started with the history of the European idea since the Middle-Ages. A student noted in his presentation on the early thinkers of Europe like Dante

or Pierre Dubois, that their ideas on Europe lacked the democratic element. Well, what would even a far-sighted man like Rathenau have answered to the question of a real or supposed democratic deficit in the European integration of today?

#### V

Walther Rathenau was a very gifted man, but he was also, as I already stated, full of contradictions. So if you quote him, you may also find quite different or even opposite remarks on the same matter. This has something to do with the different phases of his life and career, with disappointments and new perceptions. This is not necessarily bad, on the contrary. Konrad Adenauer's words are famous: when confronted with a contradiction to an earlier view he had held, he replied: "Nobody can prevent me from becoming more clever."

Rathenau's first European plan dealt with a customs union in Central Europe, a plan he submitted to Chancellor Bethmann-Hollweg in summer of 1912. This union would comprise Austria, Switzerland, the Netherlands and Belgium. He thought that only from and with the power of this unit, some settlement with Britain, Germany's main competitor, was possible. His most famous vision of Europe dates from just before the outbreak of the First World War (*Deutsche Gefahren und neue Ziele*, 1913). But we have to bear in mind that what he was aiming at, was more or less Central Europe: Germany, Austria, Switzerland, Belgium, the Netherlands, France and Italy, countries who with the exception of Switzerland are more or less the same as the nucleus of the European Community in 1957, and by far not the area of today's EU. Rathenau attributed a special role to Germany's relations with Great Britain (it is interesting to see that Mrs. Merkel shares this view, in spite or because David Cameron's famous EU-speech).

Rathenau wrote:

*"Trade legislation has to be harmonized, syndicates to be compensated, fiscal customs income has to be distributed, and losses have to be substituted. The goal would be an economic unit on equal footing with the American, maybe even superior. Within this European federation no backward, stagnant or unproductive territories would remain. At the same time, the nationalistic hatred of nations would diminish. When Europe's economy merges into a community its policy will merge. This is not yet world peace, not yet disarmament, but it means softening of conflicts, saving energy and a joint civilization."*

<sup>3</sup> "Walther Rathenau, Technokrat und Weltentraeumer" by Michael Stuermer, at the Conference, op.cit.

## VI

The foreign policy which Rathenau proposed before 1914 was intended to avoid military conflicts, because they were too expensive and brought too many losses, and yes, because they were bad for business and the well-being of the people. If we look at the misery, the poverty, the unemployment after the War, in the so-called roaring Twenties and Thirties, one can only acknowledge the accuracy of his position. For Germany and Britain he proposed disarmament, as the arms race damages the economy of both countries. Prophetic words!

Eight months after he wrote this paper, there was war. Rathenau was devastated. But he developed plans for the future, a Central European Trade Area and peace with France: "The danger of German isolation disappears, as soon as we merge those countries whose civilization constitute a unit." With this vision, he was far ahead of his time, congenial with the architects of Europe after World War II: Monnet, Schuman, Adenauer, Spaak and de Gasperi. The creation of the European Community for Coal and Steel in 1951, the precursor of the European Economic Union of 1957, was exactly what he would have done, if the time would have been ripe and if he would have found, in his days, partners in the Allied countries.

Why did he fail? Ideas have their time, and the time was not yet ripe. The historian Michael Stuermer sees a more decisive reason: "One, who in the industrial world constructs grand designs and networks and, in his private or personal sphere strives for a *Gesamtkunstwerk* (comprehensive work of art), will encounter disappointment in political life. You have to be or become invulnerable, and the absence of invulnerability was Rathenau's weak point."<sup>4</sup> In modern words: he could not come up with the Teflon-effect.

His talent caused envy, his diversity, independence, wealth, his sense of duty, and above all – he was a Jew. His only weapon was his brain, his experience, his patriotism and the rare skill farsightedly to understand the full scope of politics and to act accordingly; the skill, which Henry Kissinger calls "The ultimate task of statesmanship". This skill he would show in the last phase of his extraordinary life, when he was called to duty after all the others of the old political, diplomatic and military elite had miserably failed the members of the big noble families who had sat in the cabinets, who, with the exception of Bismarck, had apparently succumbed to genetic fatigue.

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<sup>4</sup> Michael Stuermer op. cit.

The early days of the Weimar Republic were overshadowed by the inextricable issue of reparations which Germany had to pay according to the Treaty of Versailles. In May 1921, Rathenau became Minister for Reconstruction, a portfolio in which he had to devote his work completely to this issue, where no gratitude from whomsoever could be expected. Those who – like Rathenau advocated the fulfillment of the obligations were slandered as *Erfuellungspolitiker* (Politicians of Fulfillment). The time was not yet ripe for realizing that the only virtues left to the loser are patience and firmness, as Konrad Adenauer later put it.

Rathenau had to start at the bottom: when he met with the French Minister for the "liberated territories", Louis Loucheur, in Wiesbaden in July 1921, he achieved a substitution of financial contributions by material ones, as the German Reich had absolutely no cash left, and this with the date of payment drawing inexorably closer and inflation running high. His ultimate and at the time very demanding strategic aim was to separate the reparation issue from bilateral relations, making the reparations seem like a technical matter. This policy could only work with the right counterpart, and especially with French politicians it was an uphill-battle. As soon as Rathenau had established good and confidential contacts, the counterpart was fired in Paris, like in the case of Prime Minister Aristide Briand, who was replaced by the hardliner Raymond Poincaré.

In late 1921, Rathenau (for a brief period not Minister, but Special Commissioner of Chancellor Wirth) travelled to London for talks with Prime Minister Lloyd George. There, he met a more pragmatic position, leading to hopes that Britain would agree to a compromise on the Reparation issue. Lloyd George developed his ideas on a multilateral conference on the Reparation issue, which started in January 1922 in Cannes and continued in April in Genoa.

On February 1<sup>st</sup> 1922, Rathenau had become Minister for Foreign Affairs. In a speech in the Reichstag he warned against expecting too much from the Genoa Conference: how could delegates from 40 nations solve so many problems? But one could try to improve the climate, he said, the conference could help build up confidence and respect among the participants – words very similar to those used 50 years later in the Helsinki Process on Security and Cooperation in Europe, the process which led to the end of the Cold War and the East-West Division of the Continent. After initial hopes it became clear that the Genoa Conference would not

produce significant results. The US decided not to participate, and this reduced the chance at arriving at any significant financial settlement to nil. Poincaré continued his hardline position towards Germany, and Lloyd George, originally more forthcoming, joined him.

## VII

It was under these circumstances that the unexpected happened. Another country had been invited to Genoa, but not really treated as equal. The delegation of the Soviet Union had not been given accommodation in the city of Genoa itself, but housed 30 km away in the picturesque port town of Rapallo.

And here, on April 16<sup>th</sup> 1922, the Treaty of Rapallo was signed, a treaty between the two underdogs of the time. Its content included: mutual renunciation of reparations, establishment of diplomatic relations and intense economic cooperation according to the most-favored-nation principle. Before Rapallo, there was an unspoken fear that the Soviet Union may also have demanded reparations from Germany, which in turn would have led to the immediate financial and political collapse of the Reich.

There is dispute among historians whether Rathenau himself was originally against the Treaty, and that it was Chancellor Joseph Wirth who wanted it and Rathenau finally gave in. The Rapallo-Treaty, or better the formula of such a treaty, has haunted us up to our days, and, especially during the Cold War, it even gave birth to a myth, the "Rapallo-Trauma". Konrad Adenauer criticized the Weimar Republic for swaying and staggering between East and West. But Rathenau would have preferred to conclude rather with the West than with the sinister regime in the East. His European concept did not include the East. But Adenauer, twenty-eight years later, had Harry S. Truman and Eisenhower at his side, also as protectors. Rathenau had no Truman, but American isolationism instead.

In Rapallo Rathenau took, what the Soviets offered while the West mentally stayed in Versailles. He wanted to turn his country from being an object of unrelenting winners into a player in world politics. He wanted to win back full authority. The period that followed Rathenau, a relatively stable foreign policy phase in the Weimar Republic, the Treaty of Locarno 1923 and Germany's entry into the League of Nations, would hardly have been possible without the treaty of Rapallo.

In the morning of June 24<sup>th</sup> 1922, again after a night full of work and talks, Walther Rathenau left his elegant villa in Koenigsallee to be driven to the Foreign Ministry in downtown Wilhelmstrasse. The open car went through the quiet Grunewald neighborhood, when it was passed by another open car. In this second car there was a driver and two men, dressed in long coats and wearing head gear and protective glasses. They fired two shots at Rathenau and, in order to be sure, they threw a hand grenade. Alfred Kerr, a friend and neighbor describes what happened, as a scene reminiscent of the Pietà: a nurse, who incidentally was nearby, softly put Rathenau's head on her lap, while Germany's Jewish Foreign Minister was bleeding to death.

## VIII

### *Rathenau and Today's World?*

Many of Rathenau's gloomy prophecies have come true. But also many of his visions have come true, though not without pain. "The economy is our fate"- this famous line from 1920 has brought together Europe and America. Globalization which he had anticipated, is putting us to a hard test. The organizing principle of his thinking was the European civilization, which is based on its Jewish and Christian heritage. It makes us think about the purpose and direction of our time with all its uncertainties, let alone about the validity of our civilization with its values in a global context. Walther Rathenau set standards beyond the ordinary. You don't make many friends this way. Yes, he was a tragic figure. He wanted to spare Germany and Europe the big disasters he saw coming. For that, his life was too short, and time had to elapse before his visions could come true.

# Fritz Bauer's Contribution to the Re-establishment of the Rule of Law, a Democratic State, and the Promotion of European Integration

Franco Burgio

## I. INTRODUCTION

My name is Franco Burgio and I work as a Coordinator for the Jean Monnet Programme on European Integration. Yet, today I am not here to talk about Jean Monnet, one of the founding fathers of the EU, but about a founding father of post-war Germany Society.

I want to talk about Fritz Bauer, a German Jew who dedicated a lifetime to defend the rule of law and the right to resist a state that violates human rights; a man whose name faded in Germany also within the judicial community of which he was an important member; a man who contributed enormously to my national identity and the identity of millions of Germans, and who perished almost in oblivion; a tendency which I would like to alter. It is therefore with great pleasure that I have accepted this invitation, which allows me to raise awareness of this extraordinary man before such a distinguished audience.

I have to admit that I heard about Fritz Bauer only a year after I finished University. Despite the fact that we are both Swabians, we both studied Law in Heidelberg and we both were active within the Social Democratic Party. I learned about Bauer one day on my way to work, while listening to a radio documentary about another Swabian, Claus Von Stauffenberg, the man who placed the bomb in Hitler's headquarters on July 20<sup>th</sup> 1944 in an unsuccessful attempt to kill him. In 1952, Otto Remer, an extreme right wing politician and previous Nazi officer who played a decisive role in stopping the July 1944 plot against Hitler, denounced Stauffenberg, Oster and other former resistance fighters as traitors to the Nation. After a long process, Remer was found guilty of defamation; ironically, only via this defamation verdict were the 20<sup>th</sup> of July plotters officially rehabilitated.

The General State Attorney in charge of that process and ultimately responsible for the verdict of defamation

was Fritz Bauer. In the next couple of minutes I will try to draw a picture of Bauer and his ideas on the right of resistance. I will talk about the two most prominent trials he initiated: the Remer and the Auschwitz Trials. Furthermore, I will discuss how the European Project started according to Bauer, and how his efforts influenced German national identity in relation to the European integration process.

It is commonly accepted that the European integration process based on economic integration, started with the Schuman Declaration on May 9<sup>th</sup> 1950. For Fritz Bauer however, the creation of the European Idea began in 1940, when the German Major General Hans Oster warned Belgium, The Netherlands, Denmark and Norway against the danger of an attack by Hitler. Bauer stated: "*Oster made no difference between countrymen and foreigner. He gave the term 'European Family of Nations' real meaning and truth, and made it a reality. Through his act Europe was truly born.*"

The organizers of the Nobel Peace Prize exhibition in the European Parliament have chosen 1942 as the birth year of the European integration process; the year in which transported Jews first arrived in Auschwitz - a mark of the depth of the abyss of which the European integration process subsequently hailed us. How deep that abyss was, was learned not least through the Auschwitz trial initiated by Fritz Bauer. The Federal Republic of Germany now in its 6<sup>th</sup> decade of existence is a stable democracy, conscious of the suffering brought over Europe by the Nazis and dedicated to the European integration project. This vow has been recently confirmed by a speech of the German President Gauck, where he called for a renewed confidence and a strengthened commitment to the European project.

Fritz Bauer played a major role in this consciousness process. In my opinion, the democratization process in post-war Germany and its subsequent reintegration in

the European family cannot be understood without referring to him.

## **II. VERHANGENHEITSPOLITIK**

In order to fully comprehend what I mean it is necessary to understand how most of German society and its elites dealt with the past in the first two decades after the Second World War. Historian Norbert Frei describes it in two words: integration and amnesty.

Millions were granted the opportunity to turn from war crime prisoners and Nazi party members to citizens of the Federal Republic on the simple condition that they abstained from reviving a Nazi ideology which could put at risk the integration in the Western World. By 1953, 30% of the positions in the national government were filled by persons benefiting from legislation that restored jobs and pension rights to almost all civil servants who had served under the Nazi Regime (including Gestapo officers). In particular, 42% of the Interior and Justice Ministry were former officials of the Nazi government.

Lampedusa's paradox stating that everything needs to change so that everything can remain the same was replaced by another paradox: in order to change, many had to remain. The result of this policy was silence and a repression of the collective memory, a policy which was broken only decades later. But Fritz Bauer did not want to be silent. He wanted to raise awareness of the mechanism and the results of the Nazi regime via penal proceedings followed by a process of self-reflection which he hoped would lead to an embracing of democracy and human rights.

## **III. WHO IS FRITZ BAUER?**

Fritz Bauer started his juridical career in 1930 in Stuttgart as the youngest District Judge in Germany. In this period he was also a co-founder of the Liberal Union of Republican Judges and he became the President of the regional representation of "Reichsbanners Schwarz-Rot-Gold", an organization which aimed at defending the parliamentary system. Indeed the killing of the Foreign Minister of the Republic of Weimar, Walther Rathenau, triggered his engagement in politics and reflected also the Bauers' family history of an (ultimately unsuccessful) effort for German-Jewish integration.

Fritz Bauer's maternal great grandfather was the first member of the Jewish Community of his town Tuebingen, who successfully applied for full citizen

rights and Fritz Bauer's father, a highly decorated volunteer veteran of the First World War, had to emigrate together with his wife to Denmark to unite with Fritz. After the Nazis took over power in 1933, Fritz Bauer was among the first to be detained in a concentration camp, yet not for being Jewish but for his political activities. However, he was released at the end of 1933 and managed to emigrate to Copenhagen and later to Sweden, where he joined Willy Brandt and the exiled SPD.

Fritz Bauer returned to Germany in 1948. He explained the reason for his return as follows: "*I came back because German democracy had perished already once because it had no Democrats. I wanted to be one.*" Bauer considered himself a jurist guided by a sense of freedom and not by a sense of order; an outpost of the rule of law to preserve freedom and life against order, and diversity against patterns.

That was the credo of his life, symbolised by the fact that in both courts in which he served after his return, he requested that the text of Article 1 of the German Constitution, since 1999 identical to Article 1 of the EU Charter of Fundamental Rights, be placed on the façade of the court buildings. It says: "Human dignity is inviolable. It must be respected and protected". Already when approaching the buildings people should recognize that the court is subject and tool of the supreme constitutional principle preventing the state from any action which might affect human dignity.

In his book "War Criminals to Trial" published before the end of the War, Bauer had already identified the deeper reason for undertaking the necessary criminal proceedings against war criminals. Bauer wrote "*they serve to clarify and deepen the people's concept of justice via public hearings, press reports, and the enforcement of the penalty.*"

Bauer's idea of the courtroom as a classroom for the nation is underpinned by his way of conducting trials. He invited experts as witnesses for the prosecution, which was a novelty. Their reports were then the basis for the development of a public debate. During the Remer trial Bauer requested moral theological experts' opinions on the right of resistance and on the war situation in 1944. In the Auschwitz trial the opinion of seven contemporary historical experts emerged at Fritz Bauer's initiative. I will now turn on to discuss both the Remer Trial and the Auschwitz Trial.

#### **IV. REMER TRIAL**

Let's start with the trial against Otto Remer who accused the 20<sup>th</sup> of July 1944 plotters against Hitler of being traitors to the nation. It was with this trial that Fritz Bauer successfully implemented his concept of the courtroom as a classroom for the first time against all odds.

Initially, the public prosecutor in charge, once a SA leader, rejected legal action against Remer as he claimed that there is "no prospect of success." Also the then President of the Federal Republic, Theodor Heuss, argued that "The judiciary is not competent for such historical judgments." Bauer intervened in his function as General State attorney, took over the prosecution and used the case as an historical lesson on the right of resistance. In his plea he stated: "*Treason requires the existence of a legal constitution. Yet the Third Reich was an usurping power that was never legalized, a criminal state and therefore unlawful and void*". He concluded: "a state based on injustice cannot be subject to treason."

The anti-Nazi resistance was for Bauer an example of civic responsibility and he considered its members the seeds of the liberal democracy of the young Federal Republic. For Bauer, the new doctrine was simple: If human rights are ignored or denied by the State then every citizen has the active right to defend his own humanity and that of his fellow men or at least the duty not to participate in the violation. No order or oaths whatsoever relieve the citizen from his responsibility. By condemning Remer, a West German court recognized for the first time the actions of the July 20<sup>th</sup> plotters as a legitimate act against the criminal Nazi regime - more than seven years after they had been executed.

The verdict marks a turning point in the treatment of the anti-Nazi resistance. The German Federal Home Office service edited on July 20<sup>th</sup> 1952 a special issue about the trial, disseminating the verdict and the experts' opinion. On the same day a memorial was inaugurated in Bendlerblock, the headquarters of the conspirators where since 1999, new army recruits are sworn in publicly. In addition, the German Parliament passed a law in 1998 declaring all criminal court decisions taken in order to implement the Nazi regime as null and void. Thus confirming what Bauer had already declared in 1952, namely that the Third Reich was a power which lacked any legality.

#### **V. AUSCHWITZ TRIAL**

Probably the most important contribution of Fritz Bauer to the illumination and exposure of the dark past for the sake of achieving a better future was the Auschwitz trial in Frankfurt, from 1963 to 1965. The significance of this larger process lies firstly in the fact that there actually was a trial at all. In 1959 Bauer received documentation about executions in Auschwitz. He recognized the importance of the documents received, and seized the opportunity to obtain that the Federal High Court transferred all investigations of crimes committed in Auschwitz to the Frankfurt Office of Public Prosecution, where he served as General State Attorney. After five years of investigation, a unique trial came into being. It was the largest German post-war trial and the most important penal law attempt to deal with the Nazi past. As in the Remer Trial, Bauer incited renowned experts to present the results of contemporary historiography explaining the role of Auschwitz within the context of the Third Reich.

A similar effect was achieved through the eyewitnesses, who were heard and registered on tape. The testimonials of 211 survivors created a mosaic of the life and suffering in Auschwitz, preserved for posterity in a way no other research project would have been able to achieve. Moreover, the national and international press reported in detail about the trial.

Bauer wanted more, and in St. Paul's Church in Frankfurt, the location of the first elected German parliament, an exhibition on Auschwitz was shown at his initiative and visited by many school groups. Furthermore he advised the author of a theatre play called "The Investigation" dealing with the Auschwitz trials and premiered in theatres in Germany and in London in 1965. Recently, in October 2012, there was a much acclaimed open-air performance by students in Frankfurt.

Bauer called for the poet to express what the process was not able to express and reach out to the public. Thanks to Bauer, Auschwitz was no longer just a place somewhere in Poland but became synonymous with genocide committed at the orders of a German government.

The verdicts were announced on August 20<sup>th</sup> 1965. Of the remaining 20 defendants: 3 were acquitted, 7 were convicted for murder and in 10 cases the defendants were sentenced only for assisting the killers and thus to accessory to murder; including Robert Mulka the adjutant of the commander of Auschwitz Hoess. The

court decided in *dubio pro reo* that it cannot be excluded that Mulka acted only out of a misplaced sense of duty and not with the required internal approval.

Due to the so-called "accessory jurisprudence" applied in many trials dealing with Nazi crimes, defendants involved in thousands of murders received light sentences according to their status as "accessory" to murder and not as murderers themselves, and were released from custody after a few years. The organized mass murder was not considered by the court as a "natural unity of action" and thus a clearly defined and terminated act, but killings based on different reasons, in part on command, in part by independent action, sometimes as perpetrators and sometimes as accessory.

The judges treated the defendants as normal criminals not taking into account that the crime itself committed in Auschwitz was not a common crime from the law textbooks. Yet the court followed the notion that the subject of the Auschwitz trial was to assess the guilt of the individual defendants, and not to come to terms with the Nazi past in general, and stood in diametrical opposition to Bauer's intention. The defendants denied any responsibility and therefore guilt, and the verdict concluded consequently with the standard formula: "Main perpetrators were Hitler, Himmler and other people of the closest leadership circle".

Holding responsible only to *Hitler and some of his closest collaborators*, and presenting everybody else as misguided and used and abused "helpers" was retroactive wishful thinking for Bauer, depicting Germany not as a country obsessed by Nazism but as an enemy-occupied country.

Bauer harshly condemned the "atomisation" of the "Final Solution" by the Judges and considered the "accessory" verdicts an insult to the victims. For him the activity of each member of an extermination camp starting from entering the camp up to leaving it constituted one natural *action*; "One murder, committed on hundreds of thousands of Jews as part of the "Final Solution."

## **VI. CONCLUSION**

Neither the reasoning nor the punishment pronounced in the verdicts seemed always fair. Yet, the disappointment expressed did not diminish the historical and political significance of the process. The Auschwitz trial revealed the proceedings of the

genocide of the European Jews in all its horrible detail. No one could deny that any longer, not even the defendants expressed doubts. The experts' reports exposed to the court and to the public the "Anatomy of the SS State" and made it clear that the crimes in the camps and the genocides were an integral part of the Third Reich. Thus, contemporary historians took part in the trial to inform and reveal the real face of Nazism, and the trial itself became part of this history. The crime against humanity committed by Germans has become in a large measure thanks to Fritz Bauer's efforts, an essential part of the German as well as European collective historical memory. Without him the German public would have continued to live in silence about the Nazi crimes for much longer.

Bauer died on July 12<sup>th</sup> 1968 alone in his apartment, an "immigrant at home" as it was written in an obituary. He died in a country that he loved and which he wanted to make a better place through the learning of the lessons from the past, a country that was still interspersed with members of the former Nazi elites and which to a great extent ignored or rejected the past. Many took offence at his struggle for justice and human rights since he pointed out that there is no right to follow orders, or as he put it: "*We cannot turn Earth into Heaven but each of us can do something so that Earth does not turn into hell.*"

I started my presentation referring to the recent speech of President Gauck and I want to end with the very same speech in which it is outlined that even though there is no single European identity, Europe does have a common source of identity which unites us. He stated:

*"When we stand in the name of Europe, we do not stand among monuments that base the greatness of some of us on the defeat of others. We stand together for something: for peace and freedom, for democracy and the rule of law, for equality, human rights and solidarity."*

Fritz Bauer used exactly these words when defining the word "Fatherland" in an open letter to his critics who called him traitor to the very same.

The Third Reich excluded Germany from this source of identity. Fritz Bauer defended the rule of law, equality and human rights against those who turned the legal order on its head and made the criminal will of Hitler and the Nazi elites the foundation of righteousness. The judicial confrontation initiated by Fritz Bauer was a precondition for the return to this source and the

establishment of a new democratic identity for the German people as part of the European family. Fritz Bauer paved the way to a clear NO against injustice committed by the state. He taught us that courage lies not only with those resisting the outside enemy but also the enemy within, the state and its representatives that violate human rights and foster hate between the different members of society.

For that alone he deserves to be remembered.

# Rising from the Ashes: The Shoah and the European Integration Project

Michael Mertes

The Shoah has had an explicit and an implicit impact on the European integration project. By "explicit" I mean to denote its inclusion in the great narrative of post-1945 and post-1989 European integration. By "implicit" I refer to the impact the Shoah had on the moral and political choices of European decision-makers before it became an explicit part of the great European integration narrative. When I use the term "Europe", I am well aware of its ambiguities. There are at least four different meanings. It may apply to the Strasbourg Council of Europe, to the European Union, to post-1945 Western Europe, and to post-1989 Greater Europe.

## I

Let me start with the more recent development, the inclusion of the Shoah in the European integration narrative.

I was born in 1953, which means that I belong to the so-called second generation. In my recollection of public debates from the 1960's to the 1980's, the European integration project was predominantly justified by the great narrative of the disastrous failure of European nationalism. The focus was on World Wars II and I. In public discourse, the Shoah figured as a part (albeit the worst one) of the atrocities committed by Nazi Germany in World War II.

The story of European nationalism roughly goes like this: The modern, 19th-century style nation-state had successfully overcome instability within its own borders, but externally, the principle of unfettered national sovereignty had constantly threatened the stability of the European system. Sophisticated balance-of-power politics were devised to contain international anarchy and to prevent individual states from acquiring hegemony. However, these attempts failed, and nationalism ultimately led Europe and the world into the catastrophes of two world wars. In the 1990's, this paradigm was given a new boost by the bloodshed in the Balkans.

The most famous summary of the story of European nationalism was formulated by French President François Mitterrand in a speech he gave to the European Parliament on the 17th of January 1995 at the beginning of France's presidency of the EU. Mitterrand said: "*Le nationalisme, c'est la guerre* – Nationalism is war." Against this background, I think Ian Manners was right when he wrote in 2002 that peace had been the first "core norm" of what he called "Normative Power Europe".<sup>1</sup>

I am telling you this familiar story precisely because it does not explicitly refer to the Shoah. Of course, there are many implicit links – in the first place, that between nationalism and anti-Semitism. Nationalism (at any rate its ethnocentric version) had identified the Jews as an alien minority, excluded them from the *Volksgemeinschaft* - the national community - and finally treated them as enemies who had no right to life. In that sense, the fight against nationalism and the fight against anti-Semitism have always been two sides of the same coin.

I can produce at least two witnesses for that view: Simone Veil and Jules Moïsi, the Father of the French intellectual and European devotee Dominique Moïsi. A couple of years ago, Dominique Moïsi wrote that his father's fate as an Auschwitz survivor had made him "fall in love with Europe". Like Simone Veil, Jules Moïsi believed that the unification of Europe was the best way of overcoming the "tragedy of the past".<sup>2</sup>

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When did the Shoah enter the great European narrative in an explicit form? I'd like to answer that question by giving a short account of what could be called European

<sup>1</sup>Ian Manners: *Normative Power Europe: a contradiction in terms?*, JCMS 40 (2), p.242 (2002).

<sup>2</sup>See: <http://www.tomgrossmedia.com/mideastdispatches/archives/000021.html>. For more details, see Moïsi's remarkable and moving account of his own "love affair" with Europe in his autobiographical book "*Un juif improbable*" (*An improbable Jew*), Paris 2011 (Flammarion).

memorial days.<sup>3</sup> They can be qualified as "European" either because they have been officially proclaimed (such as "Europe Day" on the 9th of May) or because they are observed in most European countries. If they are observed in most European countries, they must not be divisive in character; this is an important additional criterion.

The first of these days is November 11th, marking the armistice signed between the Allies of World War I and Germany in 1918. *Armistice Day* is not celebrated in Germany, but it is not divisive in character because no German perceives it as directed against his country.

The 8th of May – tomorrow – is a European memorial day as well. It marks the day the *Wehrmacht* surrendered and World War II ended in Europe. For quite some time, there has been a debate in Germany on the meaning of May 8th: Is it a day of defeat, a day of liberation, or both for the Germans?

Let me tell you an anecdote. When I was seven years old, in 1960, my family was spending its summer holidays in Normandy where the liberation of Europe from Nazism had started on D-Day, the 6th of June 1944. One evening, I listened to my parents and my grandmother Angelica talking about the past. I have forgotten the details of their conversation, but I can still hear the words ringing in my ears of my grandmother saying "Thank God we lost that war!" From a child's perspective, it wasn't self-evident that losing was a good thing. But of course, my grandmother was right. In today's Germany, an overwhelming majority subscribes to the proposition that the 8th of May 1945 was a day of liberation for Germany itself. Compared to German public opinion in 1960, which wouldn't have seen it that way, this change in perception certainly represents an enormous progress.

There is another point to be mentioned here. In the Soviet Union and Eastern Europe, the capitulation of Nazi Germany was commemorated one day later, on the 9th of May, also known as *Victory Day*. In Russia and other post-Soviet countries, this tradition has continued after 1991. When the 60th *Victory Day* was celebrated in Moscow in 2005 with leading politicians from all over the world, including representatives of the western World War II allies and German Chancellor Gerhard Schröder, the Baltic States boycotted the

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<sup>3</sup> I owe the idea of recounting the story of post-war European politics of memory by reference to the European memorial days to Henry Rousso's essay *Les dilemmes d'une mémoire européenne*, see: <http://www.ihp.cnrs.fr/pdf/HR-memeurop.pdf> (2004).

event and called for an apology for the atrocities committed against them under Stalin's rule.

Today, the Baltic States celebrate the end of World War II on the 8th of May, i.e., the "western" Victory Day. This is more than a marginal note, because it points to the problem of divided memory which is still affecting the European perception of the Shoah. I will get back to that point in a couple of minutes. For the time being, let us retain that *Victory Day* is divisive in character, which prevents it from being a European memorial day.

The 9th of May – the day after tomorrow – is also known as the EU's *Europe Day*. It commemorates the historical Schuman declaration in 1950 which led to the creation of the European Coal and Steel Community (ECSC) – and eventually of the European Union itself. Unfortunately, the EU's *Europe Day* is competing with the Council of Europe's *Europe Day* on the 5th of May, marking the establishment of the Council of Europe in 1949.

Among the European memorial days, the EU's *Europe Day* is unique because it celebrates the feat of a great hero, Robert Schuman. And it is very European because the feat it celebrates is not a military triumph, but a civilian achievement, a victory of the pen over the sword. Shakespeare's King Henry the Fifth famously says "This story shall the good man teach his son". However, the story of the Schuman plan might look too un-heroic in traditional terms to be fully appreciated by the sons (and daughters) who are told it today.

I would also count the *International Holocaust Remembrance Day* among the European memorial days. The 27th of January is the anniversary of the liberation of the Nazi death camp Auschwitz-Birkenau in 1945. Before the United Nations established it as an International Remembrance Day in 2005, it had already been proclaimed in Germany (since 1996), in the U.K. (since 2001), and in most European countries (since 2003).

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The European development had been accompanied, or even catalysed, by a remarkable process of national self-examination. German guilt and German responsibility for the Shoah had been an undisputable fact from the outset. But outside Germany, a public discourse emerged in more and more European countries on the role of collaboration during the years of Nazi rule and occupation. I will cite two important examples.

The first one is Austria, where the Waldheim affair in the second half of the 1980's led to a public examination of the narrative that Austria had simply been the first victim of Nazism.

The second example is France under President Jacques Chirac. Barely two months after taking office in 1995, President Chirac publicly recognized France's responsibility for deporting thousands of Jews to Nazi death camps during the German occupation in World War II. This was a courageous step. Chirac, an heir of Charles de Gaulle, did it against massive opposition at home, and I am sure it has already earned him a place among the great statesmen of his country. His predecessor François Mitterrand had constantly objected to the idea that the French Nation as a whole could be held responsible for the evil deeds of the Vichy government.

From a German perspective, these issues have to be treated with utmost sensitivity because they can easily be abused to downplay the German guilt in the Shoah by loading part of it onto other nations. I fully sympathise with Polish anger at German media's recurrent thoughtless wording that Auschwitz was a "Polish death camp". It was of course a German death camp on Polish soil. And I can also understand Polish protests against a recent and very successful German three-episode TV series ("*Unsere Mütter, unsere Väter* – Our Mothers, our Fathers") where Polish resistance fighters are portrayed as anti-Semites and thereby de-legitimised.

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Another noteworthy development which gained momentum in the 1990's is national legislation in different European countries defining Holocaust denial as criminal incitement to anti-Semitism. In some Central and East European countries, the denial of Stalinist crimes was made punishable by the same laws.

There seems to be a connection between this wave of national legislation and a more recent tendency to address the Armenian Genocide in the political sphere. The most prominent example is the French law of 2011 against the "public approval, denial or gross trivialisation of genocides, crimes against humanity, and war crimes". It was also meant to include the Armenian Genocide. (The law was repealed by the Conseil Constitutionnel in 2012 on the grounds that it infringed on free speech.)

While there is a consensus within the European Union to make incitement to racism an EU-wide crime, a similar ban on Holocaust denial is rejected by some member states because they say it would be unconstitutional for them. Accordingly, there are only national answers to that specific question.

Apart from that, the 1990's saw the emergence of EU policies against racism and xenophobia. The Vienna-based *European Monitoring Centre on Racism and Xenophobia* (which was renamed *European Union Agency for Fundamental Rights* in 2007) was founded in 1997. And since 1999, "the EU's powers have expanded to include action against discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation."<sup>4</sup>

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A downright paradigm change took place in the 1990's within the European peace movement regarding the question of how to interpret the post-1945 "Never again!" imperative. Particularly, German pacifists had simply translated it by "Never again war!" without taking into account that it could also mean "Never again appeasement in the manner of Munich!", "Never again Auschwitz!" or "Never again genocide!"<sup>5</sup>

In 1990/91, immediately after German reunification, the moral self-certainty of the German peace movement suffered a severe first blow during *Operation Desert Storm* when the German government was asked to provide *Patriot* interceptor missiles (without the corresponding *Bundeswehr* crews) to Israel as a defense against Iraqi *Scud* missiles. The second blow came with the Yugoslav Wars (1991-1999), especially with the Srebrenica massacre in 1995.

Srebrenica accelerated the schism between "pacifists" and "bellicists" within the peace movement. The bellicists argued there could be situations where the imperatives "Never again war!" and "Never again genocide!" were mutually incompatible, and that the imperative "Never again genocide!" had to be given moral priority in case of doubt.

<sup>4</sup>[http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/antidiscrimination\\_relations\\_with\\_civil\\_society/](http://europa.eu/legislation_summaries/employment_and_social_policy/antidiscrimination_relations_with_civil_society/).

<sup>5</sup> See Michael Mertes: *Germany's Social and Political Culture: Change Through Consensus?* In: *Dædalus* 123, 1 (Winter 1994), <http://www.jstor.org/discover/10.2307/20027211?uid=738240&uid=2&uid=4&sid=21102294350927>.

When the “red-green” German government of Chancellor Gerhard Schröder (a Social Democrat) decided in early 1999 to participate in NATO’s military campaign against Serbia to protect the ethnic Albanians of Kosovo, Foreign Minister Joschka Fischer (a founding member of the pacifist Green Party) justified that step by citing the imperative “Never again Auschwitz!”.<sup>6</sup> That was the strongest possible vindication (and a problematic one, because it contravened the broad agreement in German society that Auschwitz must not be compared to any other atrocity) – but it was probably unavoidable when faced with the question of sending German soldiers abroad on their first offensive mission after World War II.

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The crucial moment in European Holocaust commemoration came in January 2000 when the *Task Force for International Cooperation on Holocaust Education, Remembrance, and Research – ITF* – convened in Stockholm at an international forum. (Incidentally, the Task Force was renamed *International Holocaust Remembrance Alliance – IHRA* – in the beginning of this year.) Its founding document, the *Stockholm Declaration*, states that:

*“the first major international conference of the new millennium ... declares its commitment to plant the seeds of a better future amidst the soil of a bitter past. We empathize with the victims’ suffering and draw inspiration from their struggle. Our commitment must be to remember the victims who perished, respect the survivors still with us, and reaffirm humanity’s common aspiration for mutual understanding and justice.”*

What makes this document so important is that it seems to shift the justification of the European integration project from the initial objective, i.e., overcoming the divisions created by nationalism, to an even more fundamental idea, i.e., the renunciation of everything that led to the Shoah.

Planting “the seeds of a better future” is a common metaphor, which was presumably also used in the 1950’s with regard to the new beginning after World War II. Fifty years later, in the beginning of the new century, it may sound anachronistic – but it makes sense if it is meant to mark the new centrality of the Shoah in European politics of memory.

<sup>6</sup> Cf. <http://www.economist.com/node/204283>, <http://www.sueddeutsche.de/politik/fischer-ich-habe-gelernt-nie-wieder-auschwitz-1.915701>, and <http://www.zeit.de/2009/13/10-Jahre-Kosovo>.

During the past decade, the *Stockholm Declaration* (at least the new spirit it represents) has inspired legislation at the national and European levels to ban incitement to racism as well as Holocaust denial. By “European level” I mean to include the Strasbourg-based Council of Europe under whose aegis – to give but one example – a Protocol “concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems” was elaborated, which came into force in 2006.

There is one spectacular example that also comes to mind. I am referring to the so-called, EU-14 sanctions against Austria when the center-right Austrian People’s Party (ÖVP) formed a coalition government with the far-right Austrian Freedom Party (FPÖ) of Jörg Haider. “So-called” is a necessary epithet because the relevant measures were not taken at the supranational level, but at the level of 14 member states (15 minus Austria).

The decision was taken in a temporal (and, most probably, causal) connection with the Stockholm Conference<sup>7</sup> in which several European heads of government and foreign ministers had participated and discussed the FPÖ issue. It was based on the proposition that Haider’s xenophobic party stood outside the European value system, and it reduced contacts of EU member state officials with Austrian officials to a minimum. Canada, Israel and Norway joined in.

The excommunication lasted from February to September 2000. If its main objective was to drive Haider’s party out of the Austrian government, it was unsuccessful – apart from the fact that Haider resigned as the FPÖ’s party chairman in February 2000. (He denied that there was a causal link.)

The question remains of what the European Union can do if the government of one of its member states massively trespasses against the European value system – which is not the same as a litigable violation of EU law. In 2007, the Lisbon treaty refined the temporary excommunication mechanism introduced by the Treaty of Nice (Art. 7 TEU). Where Nice sanctions “a serious breach ... of principles”<sup>8</sup>, Lisbon seems to abandon traditional legal terminology by referring to “a serious breach ... of ... values”<sup>9</sup>:

<sup>7</sup> See: [http://www.demokratiezentrum.org/fileadmin/media/pdf/eu\\_14\\_rathkolb.pdf](http://www.demokratiezentrum.org/fileadmin/media/pdf/eu_14_rathkolb.pdf).

<sup>8</sup> <http://eurlex.europa.eu/JOHtmldo?uri=OJ%3AC%3A2002%3A325%3ASOM%3AEN%3AHTML>.

<sup>9</sup> See: <http://eurlex.europa.eu/JOHtmldo?uri=OJ%3AC%3A2010%3A083%3ASOM%3AEN%3AHTML>.

*"[The] Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2. ... [The Council] may decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council."*

This is a kind of nuclear option because Article 7 is meant to work as a means of deterrence, not as a fielding weapon. However, its use may be less improbable than it seems at first glance. Should the Euro crisis considerably strengthen right-wing extremist parties that openly advocate anti-foreigner policies and an anti-Semitic worldview, Article 7 could become a serious option. The current debate on Hungary can serve as an example in this regard. The question remains whether big member states such as Germany and France would be treated in the same way as small member states such as Austria and Hungary.

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The most recently established European memorial day is the 23rd of August, the *European Day of Remembrance for Victims of Stalinism and Nazism*, established by the European Parliament and supported by the *Vilnius Declaration* of the OSCE Parliamentary Assembly in 2009.

August 23rd was chosen to coincide with the date of the signing of the 1939 Molotov-Ribbentrop Pact, in which Nazi Germany and the Soviet Union agreed to divide Eastern Europe between each other. It had been proposed by the 2008 *Prague Declaration*, a document initiated by the Czech government and signed by (among others) Václav Havel and Joachim Gauck, Federal President of Germany since March last year, an East German pastor who became famous as the first Federal Commissioner for the Archives of the East German secret service (Stasi). The *Prague Declaration*, its antecedents and its aftermath are a PhD subject in themselves. Let me just mention two key issues of the debate<sup>10</sup> it has provoked: Is the concept of totalitarianism suited for comparisons between Nazism and Stalinism? Do comparisons between the crimes of Nazism and Stalinism undermine the uniqueness of the Shoah? In terms of the subject I have to deal with, the relevant question is what the *European Day of Remembrance for Victims of Stalinism and Nazism* tells

<sup>10</sup> See, e.g., <http://www.jpost.com/Opinion/Op-Ed-Contributors/A-new-dilemma-in-hosting-a-German-president>.

us about current and future European politics of memory.

I would contend that we are still at least one additional post-1989 generation away from a consolidated historical consciousness shared by all Europeans. As Timothy Snyder observed<sup>11</sup>, there are three separate narratives with regards to European history between 1945 and 1989: the West European, the Soviet, and the East European. The West European and the Soviet narratives are triumphalist in character – they are about rising from the ashes. The Germans (at any rate the West Germans) were able to adopt the triumphalist view as their own version by interpreting their own defeat in 1945 as liberation.

The third narrative is a very different one. Actually, it is an ensemble of national narratives. Their common denominator is that the liberation from German occupation was followed by Soviet rule, which in its own way denied the Central and East Europeans individual Human Rights and collective self-determination. It was only in the *annus mirabilis* of 1989 that they were finally given the opportunity to "return to Europe", as Václav Havel and others called the liberation from Soviet hegemony.

I do not think that the Central and East European narrative is a challenge to the centrality of the Shoah for the European historical consciousness. The problem is rather that it has not been included yet in a comprehensive European integration narrative. This inclusion is an ongoing process in which the establishment of August 23rd as a day of remembrance set a milestone. Timothy Snyder put it this way:

*"Today there is widespread agreement that the mass killing of the twentieth century is of the greatest moral significance for the twenty-first. (...) Mass killing separated Jewish history from European history, and east European history from west European history. Murder did not make the nations, but it still conditions their intellectual separation, decades after the end of National Socialism and Stalinism."<sup>12</sup>*

A new development might spring from the fact that European societies are passing through momentous changes due to immigration, including from Muslim countries. Let me briefly address the case of Germany.

<sup>11</sup> Timothy Snyder: *Diktaturen in Osteuropa: Regionalgeschichte oder europäisches Erbe? (Dictatorships in Eastern Europe: Regional History or European Legacy?)*. In: Thomas Großbölting and Dirk Hofmann (eds.), *Vergangenheit in der Gegenwart. Vom Umgang mit Diktaturerfahrungen in Ost- und Westeuropa*, Göttingen 2008, p. 33 (40).

<sup>12</sup> Timothy Snyder: *"Bloodlands. Europe between Hitler and Stalin"*, London 2010 (Vintage Books), p. xix.

Up to half of primary school students in major German cities have an immigration background. When these kids will be confronted with the Nazi past, they will perceive it as a chapter of history which is not theirs because it does not belong to their family's history.

Three years ago, the German weekly newspaper *Die Zeit* published an opinion poll<sup>13</sup> according to which half of the German respondents of Turkish origin said that confronting the Shoah was a task for every German citizen, irrespective of his or her ethnic origin. Only 15% said it was merely a task for people of ethnic German origin. However, the opinion poll made it also clear that 53% of the German-Turkish respondents believed it was more important to be concerned with the Palestinian issue than with commemorating the Shoah; only 31% rejected that proposition.

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To sum up my scan through the post-1945 and post-1989 history of European politics of memory, I'd like to retain the following results:

First of all, the explicit reference to the Shoah and its central position in the great European integration narrative is a rather recent phenomenon. It gained momentum after 1989. Without diluting German guilt, it has become the dominant view that the Shoah belongs to European history, not only German – and, of course, Jewish – history.

Secondly, we can observe a general trend in European politics of memory: from a focus on the heroes to a focus on the victims, from war to genocide, from victory to empathy. The EU's *Europe Day* on the 9th of May looks like an exception, but it is dedicated to a civilian, not a military hero.

Thirdly, Germany, the "nation of the perpetrators", managed to adopt the triumphalist view of post-1945 European history as its own version by interpreting its own defeat in 1945 as liberation.

Fourthly, the inclusion of the painful Central and East European experience between 1945 and 1989 in the great European integration narrative is not wholly completed yet. It does not challenge the centrality of the Shoah, but it challenges triumphalist interpretations of post-1945 European history.

Fifthly, future changes in the great European integration narrative may be provoked by the Euro-crisis, giving the anti-nationalist paradigm of the first decades a new relevance, and by millions of immigrants' different perspective on the Shoah.

## II

I would now like to briefly address what I have called the implicit impact of the Shoah on the European integration project. First and foremost, the Shoah contributed to a fundamental de-legitimization of German nationalism. Holocaust deniers unwittingly prove that the de-legitimization mechanism is still undermining right-wing extremist positions – which is why they want to get rid of it.

Many second generation Germans (I can speak at least on my own behalf) still feel a deep discomfort at symbols of collective pride such as the national flag, the national anthem, and national solemnities. A majority among us would not subscribe to the slogan "My country, right or wrong" because our loyalty to Germany is not an absolute value: It depends on whether or not Germany abides by the basic standards of Human Dignity and Human Rights. And I would also contend that the most ardent supporters of European integration can be found in our midst.

More than anything else, the Shoah prevented the Germans from interpreting World War II (contrary to World War I) as a European tragedy in which several nations had their own share of guilt – some more, some less. Nazi Germany's exclusive guilt was indisputable. In 1939, it had deliberately waged a war of conquest, subjugation and extermination. Accordingly, Nazi Germany's defeat was not only a total military defeat – it was also a total moral defeat.

Why is that relevant for the European integration project? There are at least two reasons: The unprecedented magnitude of the German defeat facilitated partnership between France and West Germany. The unprecedented magnitude of German guilt made it impossible for Germany to develop its own victim narrative and to re-emerge as a revisionist power.

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In his Zurich speech of 1946 Winston Churchill famously said that "The first step in the recreation of the European Family must be a partnership between France and Germany."

<sup>13</sup> <http://www.zeit.de/2010/04/Editorial-Umfrage>.

Ever since the end of the Napoleonic wars and the rise of German nationalism in the 19th century, part of the so-called “German question” had been that a united Germany with its demographic, economic and military preponderance would almost inevitably upset the European balance of power. Through its military and moral defeat in 1945, and its subsequent division between East and West, Germany was no longer a potential spoiler.

A partnership between France and Germany became possible because there was now a “psychological balance”, to borrow a phrase from Chancellor Helmut Kohl, between the two – and even a psychological and moral preponderance of France. As Joseph Rovan, a survivor of Dachau, put it in autumn 1945 in his seminal essay *L’Allemagne de nos mérites*; “never had France’s victory been purer than at the end of this implacable war”.<sup>14</sup>

In demographic terms, West Germany and France were approximately at eye level with each other. France was among the Four Victorious Powers with special rights and responsibilities regarding Berlin and Germany as a whole. It had a permanent seat in the U.N.’s Security Council. Bonn had to court Paris – Paris was in a position to show generosity.

Almost 70 years after 1945, we can see that the “psychological balance” between France and Germany is still relevant to the functioning of the European engine. As this is not my subject today, I will only hint at the fact that the economic imbalance between the two countries is currently creating considerable tensions between Berlin and Paris.

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As for the question of German post-war revisionism, I would only mention the single most important issue in that respect, i.e., the “right to homeland” and the “right of return” claimed by about 12 million German refugees and expellees from formerly German – now Polish and Russian – territories as well as from the Czechoslovak *Sudetenland*.

There is an unforgettable iconic link between the Shoah and a growing German awareness that these claims came to nothing. I am of course referring to West German Chancellor Willy Brandt’s “Warsaw

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<sup>14</sup> “[...] jamais la victoire de la France n’avait été plus pure qu’à la sortie de cette guerre implacable [...]”. Quoted from: *L’Allemagne de nos mérites*, <http://www.esprit.presse.fr/archive/review/article.php?code=30650&folder=0>.

Genuflection” (*Kniefall von Warschau*) in December 1970 at the monument to the victims of the Warsaw Ghetto Uprising. This historic gesture of humility and penance by a German head of government – who had himself been persecuted by the Nazis – was addressed to the Jews, but in West Germany it was also perceived as a gesture towards the Poles.

When Germany was reunited in 1990, it abdicated the German refugees’ and expellees’ claims once and forever. I vividly remember how bitterly this decision was disputed by many of those affected. But the issue is settled now. United Germany was one of the strongest supporters of Polish EU membership from the outset – and since 1990, we have witnessed the miracle of an ever-improving German-Polish relationship.

I am of course not denying that those affected have a right to tell their story and to be listened to. The victim narratives of innocent Germans – thousands of women raped by Red Army soldiers, tens of thousands of civilians killed by bombing raids on major cities, millions of people expelled from their homeland – are not *per se* minimizing German guilt by offsetting it against German suffering. The decisive point is that these dispersed victim narratives never managed to conflate into a single national narrative tempting the Germans to collectively cross over from the perpetrators’ to the victims’ side.

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Concerning the implicit impact of the Shoah, my second point is that it contributed to undermining the dogma of the unfettered and indivisible sovereignty of the state: While the failure of traditional balance-of-power politics provided a pragmatic argument for the concept of supra-nationality, the new focus on universal standards – as in the U.N.’s Genocide Convention and in its Universal Declaration of Human Rights, both adopted in December 1948 – added a normative foundation.

Trials, such as the Nuremberg Trials or the Eichmann Trial in Jerusalem, demonstrated that foreign officials were not protected against criminal prosecution by the sovereignty of the state under the aegis and in the name of which they had perpetrated atrocities. There were norms above the state, and these norms were restricting sovereignty regardless of whether or not they had been transformed into national legislation.

This is an appropriate moment to mention the tremendous impact the Council of Europe and the European Court of Human Rights have had on the European integration project. Although they are not

part of the European Union, they have shaped the way European states and citizens perceive the normative limits of sovereignty – and they have had a major influence on the European value system.

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My third and last point is about the paradigm change in Christian teaching about Judaism necessitated by the Shoah.

It might seem that there is no strong link here to the European integration project, but I would insist you cannot fully understand the EU's current self-conception as a "normative power" advocating tolerance, fighting discrimination and protecting minorities without taking into account the evolution of the interreligious climate.

Last week, *KAS Israel* and the *American Jewish Committee*, together with *Yad Vashem* and the *Kantor Center* at Tel Aviv University, organised a very well received international conference honouring the memory of Pope John XXIII who died almost 50 years ago, on June 3rd, 1963. Its subject was "The Shoah, the Jewish People & the State of Israel".

The Declaration of the Second Vatican Council on the Relation of the Catholic Church with Non-Christian Religions, *Nostra Aetate*, epitomizes a dramatic reorientation. Its first draft was entitled "Decree on the Jews". John XXIII himself had pressed for a new relationship between the Catholic Church and Judaism – and it is generally acknowledged that *Nostra Aetate* has been a milestone on the road to that goal.<sup>15</sup>

Europe is no longer a "Christian continent", as a majority within the six founding members probably thought in the 1950's when the fledgling European Community was praised as a re-incarnation of Charlemagne's Holy Roman Empire. However, the fight against anti-Semitism has become a number one priority on the agenda of European elites and institutions, and I do not doubt that the sea-change in Christian-Jewish relations has been a major catalyst for that development.

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To sum up my talk, as a whole, the Shoah has had a strong, and even increasing, impact on European integration – explicitly through European politics of memory, implicitly through the paradigm changes it catalysed in the sphere of German nationalism, the

dogma of unfettered sovereignty, and Christian-Jewish relations.

Although European politics of memory are subject to constant evolution, I find little evidence that the centrality of the Shoah to the European collective memory will ever be seriously challenged.

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<sup>15</sup> See <http://www.kas.de/israel/en/publications/34246/>.

# Contributions of 'Sefarad' to Europe

*Ambassador Alvaro Albacete*

I'm not a historian. I'm a Diplomat. This means that this paper is not going to be a lesson of history but an analysis on how Sefarad (which covered the area of Spain and Portugal in the Middle Ages) represented a territory in Europe for living together. It will discuss the evolution of Sefarad in the European context focusing on the expulsion of the Jews; the Jewish "converted" who remained in Spain; the pressure of the Inquisition for the "purity" of the religion; Sephardim in the diaspora; and finally the contemporary idea of Sefarad connected to recent measures(during 20<sup>th</sup> and 21<sup>st</sup> centuries) aiming at "reversing" history and resuming the image of a territory where the respect for diversity and religious and cultural minorities is guaranteed.

Whenever we speak about Sefarad the first image which always comes to our mind is the expulsion of the Jews in 1492, and the permanence of the Inquisition in the following centuries. Before reaching that point it is important to explain the context in which that expulsion happened.

Sefarad is a biblical name of uncertain location. It is mentioned only once in the Bible, in the Book of Obadiah. There are, however, old Persian inscriptions that refer to Sefarad in Asia. Anyhow, the important note is that Jews who lived in the Iberian Peninsula in the tenth century began to name the land where they lived Sefarad. It was in that very moment that the Jews associated Sefarad to a territory; Spain. Remember that in the Book of Obadiah there is a phrase that still surprises today: the exiles of Jerusalem are in Sefarad. The Jews living in the Iberian Peninsula (actually in Al-Andalus) thought that phrase truly reflected their own experience. They imagined themselves as the exiles of Jerusalem. Since then the territory of Spain is named in Hebrew; Sefarad.

And therefore a Sephardi Jew is a Jew descended from Jews who lived in the Iberian Peninsula (Portugal and modern Spain), before their expulsion in the late 15<sup>th</sup> century. This includes both the descendants of

Jews expelled from Spain under the Alhambra decree of 1492, or from Portugal by order of King Manuel I in 1497, and the descendants of crypto-Jews who left the Peninsula in later centuries.

During several centuries (8<sup>th</sup> to 14<sup>th</sup>) Jews coexisted with Muslims and Christians in Sefarad. In the year 711, Muslims conquered the Iberian Peninsula, and the Visigoths had to retreat to the north of the Peninsula. Two thirds of the territory was conquered by Muslims in some months. Muslims called the conquered territory Al-Andalus.

How about the Jews in that period of time? The Jews suffered a lot under Visigoths. There are historians who assert that the Jews helped Muslim conquerors. But there are no certain evidences to support this. What we know is that the Visigoths were not allies of the Jews. And the Jews did not have much information about the Muslims since Prophet Mohamed died in year 632 and they arrived in the Iberian Peninsula in year 711. Therefore, the Jews were, one could say, confident that the treatment of Muslims towards Jews could be more respectful.

As a matter of fact, the Muslims divided the conquered population into two classes; those who accepted conversion to Islam and those who remained in their religion but with whom Muslims could reach "peace agreements for coexistence". In this second class of citizens were included what they called the citizens of the "religions of the Book"; Christians and Jews. This population was granted with freedoms: to work, to practice their religions, to organize their life in communities (Jewish and Christian Communities).

Considering the standards of the eighth century, those freedoms recognized to religious minorities were extraordinary. Those freedoms were the seeds that allowed Jews to play a so prominent role in Sefarad in the tenth century, under Abd Al Rahman III (first independent Caliph, who established the capital of the Caliphate in Cordoba, separated from the Caliphate of Bagdad). For Abd Al Rahman political independence and economic wealth were important , but so was cultural relevance.

In this context, people of all creeds enjoyed tolerance and freedom of religion under his rule. The people "of the Book" were attracted to work in his Administration. There is evidence that Jews worked very close to Abd Al Rahman. That was Sefarad; Christians, Jews and Muslims working and living together. The atmosphere was there, and then emerged the Golden Age of the Jewish Culture, precisely in Sefarad.

Things changed at the beginning of the eleventh century. Abd Al Rahman died in 961 and the Caliphate of Cordoba was fragmented in several "kingdoms", known as "Taifa kingdoms" (there were up to 23 kingdoms in Al- Andalus, where before there was only the Caliphate of Cordoba under Abd Al Rahman III). But Jews continued working with the authorities in the new small kingdoms and continued with their glorious cultural and scientific production. We are going to pay special attention to one of those small Taifa kingdoms, Granada, where there was a Jewish "Visir" called Nagrela. He was a prominent figure of the Golden Age: culturally productive; politically powerful; and militarily skilled. Nagrela was a real combination of talents, which summarizes the best image of Sefarad. The same could be said for many other names, who found in those centuries in Sefarad the right atmosphere for their political, religious, cultural or scientific production including Maimonides, Yehuda Halevi, Ibn Gabirol, Benjamin of Tudela, Moses de Leon, Ibn Shaprut, Ibn Paquda and so on and so forth.

The division of the Caliphate of Cordoba in twenty-three Taifa kingdoms meant there was no longer a unified response from Al-Andalus to fight against Christian re-conquest of the Iberian Peninsula. So Christians began progressively to take advantage from North to the South. In the year 1085 the city of Toledo was conquered. We should remember that Toledo was the Capital of the Iberian Peninsula under the Visigoth Empire and therefore it was a quite relevant symbol in the re-conquest process.

Then the Muslims asked the Almoravides from the North of Africa to help them in the battle against Christians. But what about the Jews? The Jews were in the middle of the battle. On one side, Almoravides were not as respectful of other religions as the Muslims in the period of Abd Al Rahman, but on the contrary Jewish practices were forbidden and freedoms were restricted. On the other side, Christians battled to regain the territory of the Iberian

Peninsula for Christianity; the same goal of the Crusades over Jerusalem.

But at that time Christian people in the Peninsula were not as advanced as Muslims. It was mainly for that reason that Christian kingdoms accepted Jewish people to stay in their territory during the process of re-conquest of the Peninsula. The Jews served in the government and administration although their status was not the same as the Christians. The Jews were a minority accepted both under Muslims in Al Andalus and under Christian kingdoms. But that tolerance occurred because the Jews were useful to them thanks to their sage in the fields of medicine, pharmacy, commerce, financial administration and tax collection, agriculture and farming. Jews were involved in the latter two (agriculture and farming) only indirectly and not as owners because at the time they were not allowed to own lands or farms. For that reason Jews lived mainly in the cities, in certain areas called *kahal*, which is the expression that we use in Spanish nowadays (*kahal=calle*) for rue.

In fact we should wonder if the Jews had real freedom under the Christian kingdoms, and the response is yes (although, as it happened in Al Andalus with Muslims, freedoms and rights were limited compared to Christians). And that is a difference (temporary difference) with the rest of Europe, where Jews were expelled (1290, Great Britain; 1394, France), and there were pogroms and persecutions in other areas of Central Europe (current territories of Germany, Austria, Italy...) where the authorities followed the dispositions of the Lateran Councils of the Catholic Church, Third and Fourth Lateran Councils (1171 and 1215), according to which Jews had to use external signs to be recognised, and live apart, among other discriminating measures.

That constitutes a relevant difference compared to the rest of Europe. In that period of time (13th, 14<sup>th</sup> centuries) Sefarad was an exception. It was a sort of an island in Europe. In Sefarad, rights and freedoms for Jews were protected by laws, and the implementation of the Fourth Lateran Council was suspended. The legal framework in the Christian kingdoms of Sefarad was not perfect for Jews but it guaranteed them individual, social and religious freedom.

In this respect it is important however to pay attention to details. The legal framework in Sefarad favoured coexistence between Jews and Christians. But Jews

were not at the same level as Christians. Let's be clear. There was "coexistence" or "tolerance" but the question is: was there a real "living together" (what in Spanish is called *convivencia*)? We have some examples of that real "living together" atmosphere when we look, for instance, at the Synagogue "El tránsito" in Toledo (1356), which represents the fruit of the collaboration of the three cultures (Jewish, Muslim and Christian).

But then, how could it happen? How could the violent attacks of 1391 happen? How could the 1492 decree expelling Jews from Sefarad happen?

There is no simple answer for that. Several elements led to that point. We know that some Jews played a relevant role in government and administration, and more precisely in financial and tax collection. Those Jews constituted a kind of wealthy elite that did not represent the majority of the Jewish population but they could be seen by Christians as the image of the entire Jewish population, above all in the period of late 12<sup>th</sup> and 13<sup>th</sup> century when the Spanish kingdoms suffered a deep economic recession.

But we all know that there was an obstacle beyond economy, culture, traditions and societies; an everlasting obstacle between Christianity and Judaism. It was obviously religion. Jews were considered by Christianity as the people who had killed the son of God. Religion was behind the horror of the pogroms in 1391. Religion was behind the expulsion of 1492. That is why Jews were obliged to conversion; that is why in 1492 Jews were expelled if they did not accept conversion.

The pressure exerted for Jews to convert to Catholicism was almost overpowering. In fact, before the expulsion in 1492, between the pogroms in 1391 and 1492, two thirds of the Jewish population (that amounted to 200.000 people by the pogroms in 1391) was converted. Of course, many of them accepted the condition because they preferred to stay in Sefarad and others probably voluntarily. But then, when they were converted, many moved from the area where they lived (and became neighbors of the Christians), and even changed the traditional occupations of the Jews, having new responsibilities in municipalities or governments. Some kept practicing Jewish traditions (i.e. Shabbat) at the same time they celebrated Catholic festivities. They became suspicious. Simply, Christian society was not prepared for that. Then, before the expulsion, in 1479, specifically to verify the accuracy of the conversions,

the institution of the Inquisition was created, which remained in force until well into the 19<sup>th</sup> century (1836).

This is the point –the crucial moment of the expulsion and the beginning of the diaspora- where we should remember the phrase already mentioned from the Bible: "the exiles of Jerusalem are in Sefarad". The people who imagined themselves as the exiles of Jerusalem; the same people, when they were exiled from Sefarad concluded that it was worth preserving the traditions of Sefarad, the language, the memory and the identity. But what does that memory consist of? It is the memory of the Golden Age of Jewish Culture. A fruitful period defined by the coexistence of Muslims, Jews, and Christians.

Now we jump to the 20<sup>th</sup> and 21<sup>st</sup> centuries and the efforts made in Spain to "reverse" history. As in other countries, Spain's Jewish identity is structured around three aspects: religion, Israel and memory, with the difference that in Spain that memory refers to both the historical and cultural aspect around Sefarad, as well as the Jewish genocide. Anti-Semitism in our country is produced in these three aspects, associating with each other, or in isolation. The response from a public and institutional perspective to the reality of anti-Semitism in Spain is organized fighting three fronts simultaneously.

First, by establishing legal limits that enable coexistence. In this context, it is a particularly relevant government initiative of Spain - approaching law of countries such as France, Germany, Belgium, Switzerland and Austria- to address the reform of the criminal law regarding public incitement to violence or hatred, directed against a group defined by their religion or belief, descent or ethnic origin (anti-Semitism in the strict sense), as well as publicly condoning, denying or trivializing crimes of genocide (Holocaust denial). With this new legislation, in which the Ministry of Justice is working, Spain integrates into its regulations the spirit of the resolution of the UN General Assembly, January 2007, which condemned "without reservation any denial of the Holocaust".

Second, by vindicating the memory of Jewish-Sephardic Spain and, in parallel, explaining the reality represented by the Jews and Judaism in contemporary Spain. The King's visit to the synagogue in Madrid to mark the 500th anniversary of the expulsion of the Jews in 1992 represents a turning point in our history. On the occasion of this visit, King Juan Carlos

said: "Sefarad is no longer a nostalgia, but represents the home of the Spanish Jews."

Also the programming of the Sefarad-Israel Centre plays an important role, through activities that help restore that collective identity, the establishment of ties with the Sephardic diaspora communities, researching their trips because of the Sephardic expulsion and, where appropriate, their returns, the use of "Ladino" or Judeo-Spanish, and particularly the *jaquetía*, promoting the celebration of most important Jewish holidays (i.e. Hanukkah) in public spaces, or the persistence of their traditions and culture. Aspects that in turn contribute to a better understanding of the current reality, giving answers to questions that deal with reciprocal identity of Jews (descendants of the expelled Jews) and non-Jews. The former, claiming their Sephardic character linked to Spain (let's say their *españolidad*); the latter, wondering about the origin of their names and their alleged Jewish ancestry.

In response to those who claim their *españolidad*, the government of Spain has expressed its willingness to grant nationality to Spanish Sephardic Jews who until now have been in the Diaspora. This necessitates legislative reforms on the one hand, to prevent the acquisition of Spanish citizenship which involves the renunciation of national origin, and secondly, the establishment of a regulated system with clear and equal conditions for all applicants. This should include adequate safeguards for both applicants and the Spanish State. It is important in this regard, to remember that according to the agreement signed with the State in 1992, the Federation of Jewish Communities of Spain officially represents Jewish Communities to the State. But, even more, being a member of the global Jewish organizations is the only one with full warranty who can offer the Spanish State security on the applications. Therefore, legislative reform being addressed in terms of nationalities will involve strengthening the official role the Federation of Jewish Communities in Spain plays in its dialogue with the State.

This question of procedure is substantive. The goal of closing a historical process that began with a Decree imposed cannot be achieved with another Decree imposed, but must be done with the participation of those who inherited the effects of Decree 1492, represented by the Federation of Jewish Communities of Spain.

Thirdly, by joining international efforts in this area,

and sharing with other countries our challenges, and our means. In 2008, Spain joined as a full member the *International Alliance for the Memory of the Holocaust*, which includes 31 member states, EU countries, USA, Canada, Argentina and Israel. Its Charter (Stockholm Declaration, 2000) states that member countries "must strengthen the moral commitment of our peoples, and the political commitment of our governments, to ensure that future generations can understand the causes of the Holocaust and reflect on its consequences". In this sense, our biggest challenge is to further the work in education, with the active involvement of education authorities, teachers, students, families, and society as a whole.

Spain, not having directly participated in the Second World War, does not have the experience of massive crimes committed during the Holocaust years. Our memory area is therefore more limited, but still present. Especially in the assistance given to Jews who reached our country to escape the Nazi regime, and the help provided, anonymously or through Spanish diplomats for the persecuted to be saved. The United Nations has chosen as the emblem of Holocaust remembrance day in 2013 the title the "courage to protect", alluding to those who, in many cases even at the risk of their own lives, saved those who were threatened with death solely because they were Jews, gypsies, homosexuals, disabled etc.

With this proposal, the UN is paying tribute to the "saviors". Some like Raoul Wallenberg, a Swedish diplomat, who was commemorated in 2012, the centenary of his birth, or Angel Sanz Briz, who coincided with Wallenberg in Budapest. Sanz Briz saved the lives of between 5,000 and 6,000 Jews in 1944, including the evacuation to Tangier of 500 Jewish children, and has been awarded the title of Righteous Among Nations, which is granted by the State and people of Israel to non-Jews who saved Jews from the Holocaust. This was a heroic attitude also held by other diplomats. For this purpose, to pay tribute to those "saviors", the Ministry of Foreign Affairs and Cooperation of Spain has started a research project of their files to raise awareness of the work that our diplomats made during those fateful years as well as enhance the figure of those who put the means at their disposal to save the lives of the people who were threatened by the Nazi regime.

The Remembrance Day in Memory of the Holocaust, held in Spain every January 27<sup>th</sup>, also is a joint

international effort to preserve that memory. That is the day set by the UN for the annual commemoration in memory of the victims of the Holocaust. On that date, in 1945, the Soviet Army liberated the largest Nazi death camp, Auschwitz-Birkenau. In 2013, our celebration was held in the Senate Chamber of Spain, in its former plenary hall, with the presence of representatives of the three branches of State, Legislative (Senate President), Executive (Ministers of Foreign Affairs and Justice) and Judiciary (President General Judiciary Council). Also in attendance were representatives of the *International Alliance for the Remembrance of the Holocaust, Memorial de la Shoah* and *Yad Vashem*.

Spain is not an anti-Semitic country. But there is some anti-Semitism in Spain. Hate speech is corrosive and contagious, and the moral corruption that it involves turns easily through demagogic speeches. For this reason, we must be as clear as our language permits us: Anti-Semitism, or any other type of discrimination have no place in the twenty-first century world in which we stand. This is what we want for Spain, and for the entire European continent.

In the context of a burgeoning new anti-Semitism in Europe, we want to pay tribute to Sefarad; Sefarad as an idea and place. As an idea, highlighting its side of coexistence between religions and cultures. As a place, the Europe of the twenty-first century, in which we the people are committed to democratic values and principles. In this sense, we are preparing an International Conference (which may be in Toledo) under the name of Sefarad Living Together (*Sefarad Convivencia*). A Conference with a trunk (*Convivencia*) and three branches: Anti-Semitism in the 21st century, Judeo Christian dialogue, and Europe as a project of coexistence in the mirror of Sefarad.

"*Where the danger grows, also grows what saves us*", wrote the German poet Hölderlin. We learned from the Holocaust that indifference and passivity are necessary partners for tragedy.

# The Cultural Dimension of Jewish European Identity

Dr. Dov Maimon

Of all the expressions of Jewish identity, Jewish culture has traditionally been the most legitimate and the most celebrated in post-Enlightenment Europe. Since their political emancipation at the end of the 18<sup>th</sup> century, Jews have endeavored to contribute their part to the broader society by focusing on the elements of their identity that fit the secular and liberal ethos.

In order to demonstrate their full allegiance to the emerging nation-states, they pushed aside their religious, ethnic and "national" distinctiveness. Culture became the main dimension that Jews presented. It allowed them then – and still allows them today in Europe – to remain connected to their ancestral tradition without being outsiders and "others". Having adopted this strategy, European Jews faced diverse reactions from the surrounding society that varied, depending on time and place, from tolerance, acceptance and philo-Semitism to complete rejection and social exclusion.

In recent months, much has been written about Europe's economic, political, and demographic turmoil and its implication for European Jews.<sup>1</sup> Some analysts are quite pessimistic about the future while others praise what they see as incredible cultural thriving. How can we make sense of this paradox? Could it be that while Jewish culture is celebrated, the other basic dimensions of Jewish identity are desecrated? We will present here the evidence of the cultural renaissance, the facts supporting the discomfort and even the signs of identity crisis among certain sub-groups of European Jewry.

## THE EUROPEAN JEWISH RENEWAL: ROOTS AND CONFIGURATION

The past decade has seen a remarkable growth and revitalization of Jewish life across Europe. New initiatives are emerging in countries across the continent, and people are connecting and reconnecting to Jewish life – particularly in cultural ways. Some experts even speak of a Jewish renaissance in Europe. In the affluent and protected suburban Jewish neighborhoods of West Paris and North London, Jewish life is more vibrant than ever, and every week new families move into them from other communities. Vienna's Jewish community is also growing thanks to an influx of Hungarian Jews, Berlin's Jews have launched the *Jewish Voice from Germany* – a publicly-funded quarterly periodical with a circulation of 50,000 – Budapest's Jews have opened a vibrant Israeli Cultural Center, and kosher restaurants and centers for Talmudic studies open continuously in European capitals.

Jewish cultural entrepreneurs are creating new realities, focusing on education, arts and culture, and community building, and introducing new ways of expressing Judaism that are inclusive, open and accessible, and reach people who were previously unaffiliated with the established communities. Rather than leaving societal needs to the central Jewish institutions, social entrepreneurs are creating innovative solutions, delivering extraordinary results and improving the lives of thousands of disaffected Jews. Young activists, even in very isolated environments and with very little, if any, institutional support, have been responsible for launching a number of new initiatives such as Jewish Web-Radio in Milan, a Jewish-Israeli film festival in Amsterdam, a career advice center in Moscow, a European Jewish-Muslim dialogue conference, and a Holocaust Memorial Day in Romania. Thus, according to the *Jumpstart Report* writers, Europe is witnessing an unprecedented revival of contemporary Jewish life.<sup>2</sup> As of spring 2010, they estimated that there were 220-260 European Jewish cultural and social initiatives currently in operation.

<sup>1</sup> See for example the lively debate over the pages of the *Mosaic Magazine* in August 2013 that started with Michel Gurfinkel's essay "You Only Live Twice". See also Jonathan Tobin's article in *Commentary* "The end of European Jewry" and my in-depth study about European Jewry challenges: "European Jewry – Signals and noise".

<http://jppi.org.il/news/132/58/European-Jewry-%E2%80%9C-Signals-and-Noise/>

<sup>2</sup> <http://jewishecosystem.org/euro2010/p.7>

Relative to their respective populations, there were, according to these observers, nearly twice as many Jewish initiatives in Europe (1 project for every 6,400 Jews) compared with North America (1 project for 11,000). The Connecticut-based *Westbury Group* shares a similar optimism regarding European Jewish revival.<sup>3</sup>

Throughout the world, emerging adults listen to and make music. But music is not only a medium for people – young and old – to express their culture; it is also a metaphor, a mirror for the attitudes and mores of the culture itself. Thus, the young, international contemporary music that today celebrates diversity does not sit well with ethnic and religious boundaries, just as the world-view of Europe's wider societies do not comfortably accommodate Jewish particularism.

The challenges young Jews face is how to be part of the “cultural mélange” they see as an extremely positive global trend, while at the same time keeping their ethnic distinctiveness. The rather clever response of some young Jews has been to launch what we may call *Brand J*. In order to position themselves firmly in the heart of roiling activity of the self-identified Jewish cultural, social and political initiatives, they have adopted as part of their brand name the letter “J” or other easy-to-Google common designators that echo their ethno-religious linkage – among them, *JDub*, *Jewcy*, *JewTube*, *RadioJ*, *JewSalsa* and *JMu* (music and art), *Jhub* and *JVN* (social innovation) and *J-Street* and *J-Call* (politics).

There are other initiatives, too, that consciously use Jewish culture as a springboard for connecting Jews to their fellow non-Jewish countrymen. From Amsterdam to Paris, London to Berlin, Jazz'n'Klezmer festivals attract mixed bands of Jews and non-Jews playing and enjoying music together. And across Europe, small groups of activists have launched Jewish cuisine courses, Jewish art expos, and Jewish film festivals.

Yet, when we compare American and European Jewish innovations of this kind, stark differences emerge. The proliferation in North America of grassroots projects that express a creative spirituality and the drive for *Tikkun Olam* (a paradigmatic Hebrew expression used to describe the Jewish American commitment to social justice, the environment and the fight against global poverty) does not find an echo in Europe.

Europe, of course, is not entirely devoid of such initiatives. The most notable European project of this

kind is *Limmud*, an initiative of Jewish learning and culture that brings together some of the world's most dynamic Jewish educators, performers and teachers to offer participants lectures, workshops, text-study, films, meditations, discussions, exhibits and performances. Thanks to its professionalism and exceptional spirit, it has succeeded in expanding from London to more than a hundred other places around the world.

However, the gap between the self-confident dynamism and creativity of American Jews and the more hesitant activity of their European counterparts illustrates one of the fundamental differences between being an emerging Jewish adult on the different sides of the Atlantic. Beyond the lack of Jewish institutional backing for startup projects, Europe is different from America in at least the following interconnected dimensions: a reluctance by the general population to accept Jewish exceptionalism; the highly-centralized nature of the Jewish establishment; the Shoah-centered discourse about Jews; and a "Balkanization" of European Jewry caused by national boundaries and linguistic diversity that has led to a lack of connectivity.

All the same, Jewish culture is a constituent part of European culture and its place and visibility seems to be higher than ever. Leading Jewish figures are playing an important role in national debates and the interest shown by some non-Jewish intellectual circles in Jewish culture is impressive. Some writers – Kertész, Benjamin, Levinas, Celan, Jankelevitch, Arendt, Kafka, Singer, and Roth, to name just a few – are the subjects of high-quality publications and intense debates that extend far beyond Jewish circles. Nor are cinema, art and show-business excepted: In Europe as in North-America, many leading comedians and artists, actors and producers, singers and media directors are of Jewish descent.

Indeed, Jewish thinkers and scholars have been prominent on the intellectual scene in Europe for centuries. Their contribution to European culture has consistently been of major importance since the Aufklärung revolution. Without doubt, European intellectual life would have been substantially different without the contributions of Sigmund Freud, Heinrich Heine, Jacques Derrida, Marcel Proust, Claude Lévi-Strauss, Émile Benveniste, Karl Popper, Roman Jakobson, E. D. Hirsch, Jr., Claude Lévi-Strauss, Erich Auerbach, Ernst Gombrich, Boris Pasternak, Arthur Koestler, Saul Bellow, Harold Pinter or Thomas Kuhn.

An area of significant Jewish influence that is closely related to literature is twentieth century linguistics and

<sup>3</sup> <http://www.compass-europe.org/about-compass.php>

language-based philosophy and criticism, which has been described by the eminent literary critic George Steiner as perhaps the century's "most important intellectual achievement outside the physical and mathematical sciences. "Steiner goes on to note that through the work of Fritz Mauthner, Karl Kraus, Ludwig Wittgenstein, Walter Benjamin, Roman Jakobson, Zellig Harris, Noam Chomsky, and many other Jews, "the language revolution" can be considered to constitute "a decisive interaction between Judaism and the genius of the spoken and written word".<sup>4</sup> Even if Jewish intellectual presence is not new to Europe, the renewed interest in Jewish culture we have witnessed over the last decade is exceptionally intense.

Observing the fascination for fiction writers such as Isaac Bashevis Singer in Poland or as Franz Kafka in the Czech Republic, we may, however, question the nostalgic dimension of this interest in authors who belong to a bygone era and in populations that no longer have a significant presence in these regions. The very fact that at Jewish festivals in Poland, klezmer recitals and Yiddish theater performances are staged by non-Jews for non-Jewish audiences, illustrates this paradox.

This cultural revival could not have existed without discreet, yet effective, support from public institutions. In nearly every European capital, national institutions promote Jewish cultural events and open state-sponsored Jewish museums and Holocaust memorials. For example, the nine-day "*Festiwal Kultury Żydowskiej*" in Kraków is held under the honorary patronage of the President of Poland, while *Paideia* – the Stockholm Institute that offers the most intensive Jewish educational program available in the continent – was established with funding from the Swedish government. The achievements of the 2012 *European Day of Jewish Culture* (generously supported by public funding) are impressive: 679 activities organized in 260 cities throughout 27 countries gathered near to 200.000 visitors. In Germany alone, regional governments run sixty "*Jüdische Kulturtage*" all over the country, day-long events at which the Jewish culture is celebrated by the population, Jews and non-Jews alike. Finally, in Prague and in Venice, but also to a lesser extent, in Pest and in Rome, the old Jewish neighborhoods have become "must-sees" in any tourist

visit and the local city councils see them as part of the national inheritance.

## **JEWS AND THE EUROPEAN IDEA: PAST, PRESENT AND FUTURE**

However, when we take a closer look at the situation, the acceptance of Jewish identity is not as broad as it might first appear. European societies are selective in their relationship to Judaism. This means that in order to be accepted within the general society, Jews in Europe must adapt to a wider societal ethos in which Jewish communal life, Jewish national identity, Jewish political transnational interests, and solidarity with Israel are perceived as being in conflict with the fundamental values of post-war Europe. Clermont-Tonnerre's famous statement (1789): "All for the Jews as individual citizens, nothing for the Jews as a nation"<sup>5</sup> may be seen as the organizing principle around which a kind of Jewishness is celebrated and which is stigmatized.

### **Between Assimilation and Distinctiveness**

Having experienced the effects of discrimination and racism, many Jews have been at the forefront of advancing humanistic values in their countries. Consciously or unconsciously inspired by the biblical description of the messianic age, many – and among them European political leaders such as Walter Rathenau and Leon Blum as well as the German-born American political scientist Hans Morgenthau – dreamed of a united Europe and sowed the seeds of a wealthy, tolerant and warless continent. Out of the ashes of the Holocaust, the Jewish jurist René Cassin drafted the Universal Declaration of Human Rights whose principles inspired the founders of the entity that would later become the European Union. The idea of a supranational political entity that could protect minorities from unethical and discriminatory national laws was a blessing for European Jews and many of them worked to advance its establishment. The election of Mrs. Simone Veil as the first President of the European Parliament illustrated this intimate link between the new peaceful Europe and its Jews.

Yet, as we will show, history sometimes deceives, and the space that should have been the most comfortable for Jews has evolved into one that, while welcoming to a certain form of Jewish culture and to Jews who want

<sup>4</sup> "Some Meta-Rabbis," by George Steiner in *Next Year in Jerusalem*, edited by Douglas Villiers (Viking Press, New York, 1976, p. 70). Despite his very assimilated Jewishness and his highly conflicted relationship with it, Wittgenstein characterized his thinking, in a conversation toward the end of his life, as having been "one hundred percent Hebraic," *Wittgenstein and Judaism: A Triumph of Concealment*, by Ranjit Chatterjee (Peter Lang, New York, 2005, p. 103).

<sup>5</sup> The exact quote of Stanislas Marie Adelaide, Comte de Clermont-Tonnerre, is as follows: « Il faut tout refuser aux Juifs comme nation et tout accorder aux Juifs comme individus. Il faut qu'ils ne fassent dans l'Etat ni un corps politique ni un ordre. Il faut qu'ils soient individuellement citoyens. »

to assimilate, is not necessarily friendly to faithful Jews who wish to practice their faith in a vibrant communal environment and to transmit their ancestral tradition to their offspring. Jews who do not want to restrict their Jewishness to ethereal intellectual life, who are not satisfied with a nostalgia for a past that does not exist anymore, or who do not subscribe to folklore and "symbolic ethnicity", encounter difficulties in publicly carrying their Jewishness in today's Europe, especially in Sweden and in certain neighborhoods of Brussels, Paris and Budapest. Concretely, the place that should have provided an optimally fertile environment for thriving Jewish life is instead a place that tens of thousands of Jews are today quitting for other more hospitable shores.

The discomfort that a significant proportion of European Jews feel is no longer a matter for discussion. According to a large-scale survey on Jewish people's experiences and perceptions of anti-Semitism commissioned by the EU's Fundamental Rights Agency (FRA), Jews all over Europe feel insecure. Although the official results of the survey have not yet been published, an EU representative in Israel recently presented the basic data that the survey revealed:

- More than one in four (26%) of Jewish respondents claim to have experienced anti-Semitic harassment at least once in the 12 months preceding the survey and one in three (34%) had experienced anti-Semitic harassment over the past 5 years. 5% of all Jewish respondents said that their property had been deliberately vandalized because they were Jewish, while 7% of respondents had experienced some form of physical attack or threats in the last 5 years.

- In three of the nine states surveyed – Belgium, France and Hungary – between 40 and 50% of respondents said they had considered emigrating from their country of residence because they did not feel safe there.

- The survey results demonstrate that the frequently held opinion that associates expressions of prejudice with groups who hold politically extremist views does not give the whole picture. On the contrary, there is ample evidence to suggest that the offenders are drawn from a broad spectrum of society.

■ The survey results suggest that many Jewish respondents across the nine states included do not report anti-Semitic incidents to the police or to other agencies. 76% of victims of anti-Semitic harassment, 64% of victims of anti-Semitic physical attacks or threats of violence and 52% of victims of vandalism against their property did not report the most serious incident in the past five years neither to the police nor to any other agency.<sup>6</sup>

### **Developments that Could Challenge the Future Thriving of Jewish Life in Europe**

Against the background of demographic shifts, including the mass migration of non-European populations, recent attempts to restrict the rights of Jews to maintain normative Jewish practices in Europe could be viewed as the latest juridical and political manifestations of a larger identity backlash against multi-cultural policies. While apparently directed mainly against Muslims, this new and vigorous opposition to particularist religious practices affects the status of Judaism and may, in the long term, pose a serious challenge to the future thriving of European Jewish communities.

Even if each discrete restriction on traditional Jewish life appears to be anchored in universal values and to advance general societal concerns, their cumulative effect does not bode well. They include: the recent attempt to ban circumcision (the practice was expressly legalized by the Bundestag on December 10, 2012 but was nevertheless opposed by 75% of Germans based on human rights and medical claims), the threat to the Kosher meat supply (including the long-standing ban on Jewish slaughter in Switzerland, Sweden, Norway and Iceland, a more recent prohibition in Poland and attempts to outlaw it in Holland and France; the brand new Swedish ban on Kosher meat imports and the new EU regulation requiring the labelling of meat and meat products derived from Jewish slaughter as "meat from slaughter without stunning" – resting on animal rights claims);<sup>7</sup> the abolition of eternal cemeteries (in Switzerland and Belgium, based on environmental interests), the rejection of requests for accommodation in taking public examinations based on the Jewish calendar (in France and Switzerland, based on claims of

<sup>6</sup> Communication of Ms Sandra de Waele, First Counsellor, Head of Political and Press Section of the European Union delegation in Israel, at the 4th International Conference of the Global Forum for Combating Anti-Semitism (28-30 May 2013) in Jerusalem.

separation between Church and State), the rejection of requests for non-electric entry access in private condominiums (in France, based on security concerns); the reevaluation of the traditional policy of providing massive public funding to Jewish cultural institutions (in France and other countries, resting on equity and ethnic non-discrimination claims), and more. Taken together, the effect on the daily life of committed Jews within general society is significant.

### Celebrating Jewish Culture while Desecrating Jewish Communal Life?

We can identify several elements that have led the promising dream of a Jewish-friendly multicultural Europe to become an environment that celebrates Jewish culture but appears to be more hostile to the building blocks of sustainable Jewish communal life. A first element that made post-war Europe a problematic environment for committed Jews is linked to its aversion to religion in general and its discomfort with the collective dimension of Judaism, whether ethnic or national. After centuries of bloody nationalist, ethnic and religious conflicts, the famous song of John Lennon illustrates the European pacifist dream that emerged following the Second World War and that mirrored the founding principles for the continent's new post-war identity: "*Imagine there's no countries. It isn't hard to do. Nothing to kill or die for. And no religion, too. Imagine all the people living life in peace*". In other words, the less nationalism, the less ethnicity and the less religion we have, the better.

The values that have since become a European "mantra" are: human rights, the rule of law, and pluralistic democracy. This mantra developed from the liberal, democratic world views of the victorious powers and is based on British and French political philosophy. The British contributed their belief in individualism and the rule of law. The French brought their belief in clearly stated universal rights, their commitment to secularism (*laïcité*), and their political aversion to any ethnic definition of the State. To this they added their fervent post-war belief in the need for historical reconciliation between former enemies. In this context, Jewish exceptionalism is perceived with suspicion.

A second negative element is the legacy of anti-Semitism. Throughout European history, Jews have been the immediate "others" who fulfilled the group-identity mirror needs for the majority and further provided a symbolic reference baseline for all new "others". This mechanism played a substantial role during the eighteenth, nineteenth and twentieth centuries in the establishment of modern European

nation-states: in most Western and Eastern European countries (except for Italy, where the Catholic Church has played the role of the "other"), anti-Semitism was the common cement of national identities.

In an article dedicated to the analysis of the function that anti-Semitism fulfills in the construction of Western collective identities, Henri Zukier highlights the fact that *The Other*, the outsider, is psychologically constructed as the projected image of the negations and repressions of every society. Once constructed on this basis, and having undergone a process of demonization, *The Other* becomes an emotionally charged object that may be "manipulated, preserved and called up at will" by the members of the dominant group, and also has the capacity to trigger powerful "mechanical" feelings and reactions.<sup>7</sup>

Psychologist Edward E. Sampson goes even further, asserting that the entire Western project is marked by the construction by dominant groups of "serviceable others", whose lives are negated through control over how they are defined, as well as by the reality in which they live.<sup>8</sup> Consequently, on the old continent, Jewish belonging is never a trivial issue. Artists, politicians, writers, and movie producers of Jewish ancestry are routinely questioned by the media about their relationship to Judaism, and to Israel. Nicolas Sarkozy's successor as leader of the UMP liberal party and current French opposition leader, Jean-François Copé, whose mother is of Jewish Algerian descent and whose father is of Jewish Romanian ancestry, illustrates this pressure to disengage from "assigned" Jewishness in order to make one's way to national political leadership. He felt the need to declare that "[his] community of reference is not the Jewish, but the French."

Whereas Judaism as a culture is sometimes praised and celebrated, the ethnic, collective, and communitarian dimensions of Jewishness are repudiated. All over Europe, Jews are increasingly encouraged to keep their identity private and to avoid emphasizing their Jewishness. Although this had already been the rule for the last two hundred years, with the demographic shifts and the massive influx of Muslim populations,

<sup>7</sup> See Henri Zukier, "Transformation of Hatred: Antisemitism as Struggle for Group Identity," in *Demonizing the Other: Antisemitism, Racism and Xenophobia*, edited by Robert S. Wistrich, Harwood Academic Publishers, Amsterdam, 1999, p. 120.

<sup>8</sup> See Edward E. Sampson, *Celebrating the Other: A Dialogic Account of Human Nature*, Boulder, Colorado, Westview Press, 1993, p. 4. Quoted in Martina L. Weisz, "Micro-physics of Otherness: Jews, Muslims, and Latin Americans in Contemporary Spain," in *Antisemitism International* 5-6, 2010, edited by Robert S. Wistrich.

this expectation of “voluntary amnesia” – to use an expression coined by Franz Kafka – is becoming mandatory in the public sphere.

Pessimistic analysts observe that the 90 percent of world Jewry who lived in Europe at the turn of the 20<sup>th</sup> century has dwindled to only nine percent today. In their view, what Raoul Hillberg calls “the destruction of European Jews” seems well on the way to fulfillment, bringing the curtain down on 2,000 years of glorious Jewish contribution to European civilization.

### **EXISTENTIAL STRATEGIES OF EUROPEAN JEWS AND THEIR IDENTITY IMPLICATIONS**

Whereas in America, young Jews have integrated their Jewishness softly into their multifaceted identity, European Jews still live according to a binary identity. Like the generation of today's American Jews' grandparents, even European Jews who have very little in the way of Jewish ethnic capital and who know little or nothing of Jewish languages, written texts, and cultural expressions, have a sense of being linked – positively or negatively – to their Jewish ancestry. Even if young European Jews do not experience any impediment to their educational, economic, or social mobility, their “invisible distinctiveness” is a key component of their identity.

Not all Jews have chosen to accept this integrative model. What could be seen as the most sustainable and fastest-growing communities are precisely the Orthodox enclaves in London, Paris and Antwerp whose residents live according to the old fashioned model, with its mix of strict observance of religious rules, intensive Torah-study, self-segregation, a close-knit social fabric and intense Jewish spirit. In doing so, they opt to disregard the reaction of society's majority. They do not concern themselves with pleasing the ethos of their home countries; they simply want to continue the 3,500 year tradition of Hebraism and Jewishness.

In the categorization summarized in figure 1, this group of population would be considered an ENCLAVE.

**Figure 1: Jewish Strategies and their Identity Implications**

		HIGH general populations concerns		HIGH Jewish public identity
		Universalism	Tikkun Olam	
LOW public Jewish identity	Low Profile	in Jewish and Israel advocacy issues High Profile in general populations concerns	High Profile in Jewish cultural and religious concerns High Profile in general populations concerns	
	Individualism	Enclave	High Profile in Jewish and Israel advocacy issues Low Profile in general populations concerns	
	Low Profile in Jewish and Israel advocacy issues Low Profile in general populations concerns	LOW general populations concerns		

However, conscious of this complex context, the largest portion of European Jews has chosen to adopt a discrete Jewish profile, putting aside their commitment toward Judaism, Israel and their fellow Jews and often also abandoning the traditional Jewish commitment to the underdog. In other words, and to use the same categorization, they choose the INDIVIDUALIST positioning, drifting progressively toward assimilation.

In between, a large segment of socially integrated Jews who resent being associated with a fenced-in Jewish identity have adopted the UNIVERSALIST strategy. Since this positioning is the only one that is truly accepted and celebrated in European societies, it is also the one that deserves a more precise analysis.

We can clarify this by identifying archetypes that are variations of this generic model, though of course, in reality, individual situations are more complex and some people can be part of different types at the same time.

■ **The Enlightened:** This figure is the traditional and most accepted positioning that emerged after the 18th century. The Jew has to play a role as the liberal, progressive and open-minded intellectual. As such, he is the defender of civil rights for ethnic and sexual minorities and must take part in major societal debates. Jews with this profile can be found in the governmental sphere and in civil society.

■ **The Controversial:** Here the Jew plays the role of a deconstructive figure. He challenges the founding national and social myths. As such, he may be invited to important events and is particularly prevalent in the popular media.

■ **The Comedian:** An important figure on the artistic scene, he is a bestselling author or a successful comedian or movie-maker. He likes to shine, to charm, to please, to be loved.

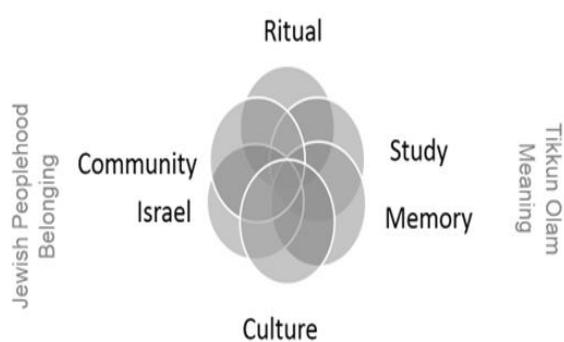
■ **The Folkloric:** Characterized by a relatively strong Jewish identity, he is willing to play with it in the general society, and even to expose it as an object of fun.

### The Limits of the Contemporary European Jewish Identity Profiles

The main question here is the role of *culture* in the Jewish *identity*. Though it is one of the main dimensions of Jewishness, can we really say that it is sufficient by itself? Our opinion is that Jewishness goes far beyond its cultural aspects. Judaism is not only its "culture" – it is a culture. It is a way of life, a *Weltanschaung*, a way of perceiving the world and events – a civilization.

Jewish culture is sourced in a 3,500-year history and reveals the human sensibility of a people that has suffered greatly. If it is to give full expression to these holistic dimensions, it cannot be reduced to culture and folklore alone. A culture that is reduced in this way is condemned to die; it certainly cannot compete with dominant cultures that offer new generations of Jews an alternative system of values and behaviors. Reducing Judaism to klezmer, culinary specialties, and the memory of suffering cannot provide the ingredients of vibrant and sustainable Jewish communities. A culture that is restricted to the private sphere and that cannot express itself in interaction with others cannot create sense for the concerned population. Observers agree that sustainable Jewish life is possible when at least three of the six basic components of Jewish identity find expression (see figure 2).

Figure 2: Components of Modern Jewish identity



We may thus question the sustainability of the four European individual strategies described above, in which Jewishness is restricted to its "cultural" component. When looking at them more closely, we see that they all have important limits as far as Jewish identity is concerned.

**The Enlightened:** Among the famous Jewish contributors to general society (such as politicians Ignaz Kuranda, Walter Rathenau, Leon Blum, Mendes France, Bruno Kreisky, Simone Veil, Ruth Dreifuss, Edward Miliband), very few have Jewish offspring. In the European context, their commitment to general society prevents them from being too committed to Jewish communal life. This is not the situation in America where many high ranking civil servants and public officials are committed Jews – committed to the Jewish people, to the State of Israel and to Judaism. They have no need to rid themselves of their Jewishness to be good Americans. European nationalism has a more exclusive dimension that regards Jewish commitment as suspect and offers no possibilities to express it in an integrated mode.

**The Controversial:** This model of people like the German journalist Henryk Broder is no less problematic in the European context. Today's prominent underdogs in Europe are Muslim – of whom a significant proportion is antagonistic towards Jews, while the prominent underdogs in the Middle East are the Palestinians. If the controversial Jew wants to remain in his position, he needs to be outspokenly critical of the State of Israel and may find himself in a trap. In this revised version of self-hate, such figures occasionally become "ethnic caution" of anti-Jewish and anti-Israeli discourses.

For the comedian and the folkloric Jews, the situation is similar. Their Judaism is considered a negative trait and they lack the positive content that would make them able to provide the young generation with a vision and a valuable life project.

### CONCLUDING REMARKS

European Jewry is thus at a critical point, possibly a watershed, in its history. Faced with a European model that provides little place for strongly affirmed identities and that the recent demographic shifts have made stricter than ever, they have to make a life choice. They can subscribe to this model and become cultural Jews only. This will allow them full membership in European societies, but it comes at the cost of their own Jewishness. Indeed, as we have shown, an identity based solely on culture has little chance of being

sustainable. By accepting the reduction of their Jewish identity to its cultural dimension, the integrated Jews, voluntarily or not, are willing to put it at risk for integration's sake. They accept being not Jews, but Europeans.

As for the Jews who give preference to their Jewishness, they have no choice but to live in the enclave or to find opportunities to live their identity more fully elsewhere.

The decision is thus in the hands of European leaders. If nothing is done, the more practicing Jews will relocate in self-segregated neighborhoods, the more nationalistic ones will relocate in Israel, the more ambitious will seek more promising horizons farther afield, while the masses who do not make these choices will drift toward assimilation.

The real question therefore concerns the possibility of an alternative model that will allow European Jews to remain proud and serious Jews while engaging towards a broader society. Could European leaders change their minds and – like their counterpart on the other side of the Atlantic – build environments that will allow European Jews to “*act Jewishly for non-Jewish causes*”, and follow the ancestral universal biblical commandment of TIKKUN OLAM (see figure 1)? This is the question.

# Anti-Semitism from a European Union Institutional Perspective

Andras Baneth

## I. THE EU PROJECT

According to Joseph Horowitz Weiler, professor of law and President of the European University Institute in Bologna, the European integration project has essentially three goals<sup>1</sup>:

- Peace: in the sense of fighting against the demonic elements of humanity
- Prosperity: a condition of human dignity and avoiding the resurgence of scapegoats
- Supra-nationalism: in the sense of controlling the excesses of the modern nation-state and preserving cultural diversity

Examining the history of European integration, especially since the creation of the European Coal and Steel Community in 1951, these goals were quite distant and vague in the minds of Robert Schuman, Jean Monnet and other "founding fathers". However, as the integration has evolved in the subsequent decades with regards to its geographic scope, the number of member states and the depth of the integration that the Maastricht Treaty of 1993 gradually encompassed, the above goals have become more visible and distilled.

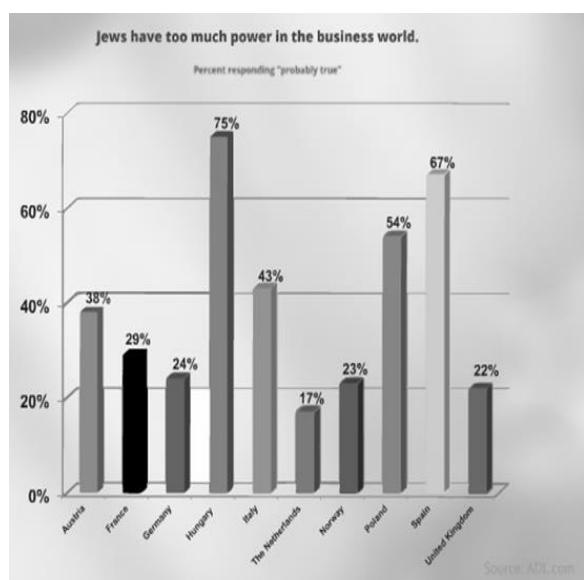
## II. EUROPEAN UNION INSTITUTIONS AND ANTI-SEMITISM

When examining the topic of anti-Semitism, we can approach it from a multitude of angles, such as social, cultural, historic, but also from an institutional perspective. This paper aims to look at the way European Union (EU) institutions try to fight against, or mitigate, the devastating effects of prejudice and potential discrimination against Jewish people. Before looking at the policies or actions of EU institutions, let us mention three preliminary issues as follows.

### a) Is Anti-Semitism a Real and Present Social Phenomenon?

According to a 2011 Anti-Defamation League (ADL) poll, I would like to highlight one chart that certainly answers the above question in the affirmative.

This chart shows the answers provided to the statement: "Jews have too much power in the business world", measuring the percentage of respondents who agreed with it. The levels in Poland, Hungary, Spain and Austria are at an alarming rate, and unfortunately confirm that anti-Semitism is a very present issue today in Europe.



### b) What is the Definition of Anti-Semitism?

To examine the issue properly, let us try to find an appropriate definition of the concept of anti-Semitism. According to Wikipedia, it is the following:

*"Prejudice, hatred of, or discrimination against Jews for reasons connected to their Jewish heritage. A person who holds such positions is called an anti-Semite. It is considered by most scholars to be a form of racism."*

<sup>1</sup> J.H.H Weiler (1995) "The State 'Uber Alles': Demos, Telos and the German Maastricht Decision,  
[shttp://centers.law.nyu.edu/jeanmonnet/archive/papers/95/9506ind.html](http://centers.law.nyu.edu/jeanmonnet/archive/papers/95/9506ind.html)

Though this definition may not be shared by all, it still serves as a baseline for examining what European Union institutions can and are willing to do to tackle the phenomenon of anti-Semitism.

### c) Action for Individual Cases: Exceptional

When looking at European-level institutions' actions, we need to consider what the Treaty on the Functioning of the European Union (TFEU) and the Treaty on European Union (TEU) provide.

According to Article 2 of the TEU:

*"The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the member states in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."*

Moreover, the EU's Charter of Fundamental Rights, which is now part of the TEU, provides the following under Article 22: "The Union shall respect cultural, religious and linguistic diversity".

When we look beyond the legal provisions, however, we need to understand that European-level institutions, similarly to most public, non law-enforcement institutions, have very limited powers to act on individual cases given their role in shaping policy and funding programs that secure these policies and their place in forming public discussions on issues.

Moreover, given the unique relations between EU-level institutions and member state (national) institutions, the power-sharing and the issue of competences is a sensitive and scrutinized topic that determines what EU institutions can or cannot do in tackling anti-Semitism.

## III. EU INSTITUTIONS TO CONSIDER AND EXAMINE

To examine the individual actions (and competences) of European Union institutions, we need to focus on the ones that, at least in a legal sense, have powers or competences to address the issue. Below is a summary of these selected EU institutions and their competences to tackle anti-Semitism in Europe.

### a) The European Commission

The European Commission, as the EU's "executive" that is most similar to a government, has the following functions:

- It is the guardian of the EU's treaties: in this role, it needs to ensure that member states, private stakeholders, and, ultimately, individuals respect the provisions laid down in the TFEU and TEU treaties and in all secondary legislation passed on the basis of the Treaties. The Commission can start proceedings against any party, including EU member states, for non-respect of the provisions laid down in the above sources of law.

- Through so-called infringement procedures, if the Commission finds that an EU directive or regulation has been breached by a member state (e.g. it failed to properly implement a piece of legislation on non-discrimination in employment), it can launch such procedures. After various rounds of consultations and safeguards, the case may end up before the European Court of Justice, which can impose legal obligations and ultimately, fines on the guilty party.

- The perspective and approach adopted by the European Commission can differ substantially for EU member states and for so-called third countries, ie. countries that are not member states but wish to be aligned closer with the EU or become members themselves. For the latter group, the Commission has far more leverage in a political sense, therefore it can threaten to suspend talks, impose e.g. import limitations or use any other "political" sanction if it finds that certain human rights abuses, including possibly insufficiently addressed Anti-Semitic phenomena, are so prevalent that it warrants such measures.

- The Directorates General (DG) of the European Commission that are most involved in monitoring and attempting to improve issues related to discrimination, prejudice and Anti-Semitism are; DG Employment, DG Enlargement, and the External Action Service (which is formally speaking not a Commission DG but a standalone service).

- When it comes to EU institutions' own staff, the European Commission has various tools in place to make sure its staff lives up to the legal and ethical standards the Commission, as an institution advocates. The Staff Regulations and Code of Good Administrative Behavior are two documents that have provisions to this effect. Moreover, the Commission and all other EU institutions are equal opportunity employers with various measures in place to encourage the recruitment of a diverse workforce in every sense of the word.

### b) The European Parliament

The European Parliament (or EP) is the EU's only directly elected institution. As such, it is also the most

"political" one that responds to the events and popular demands of voters in all of the 28 EU member states.

Tackling Anti-Semitism is a very indirect issue for the EP, and the most it can do (and is rarely willing) is scrutinize, in a political debate or public discussion, the situation in the EU or in a given member state usually as a result of a scandal or political development. It will rarely put on its agenda the issue as such, and this may be considered normal given the powers and role of the EP. The most important result of this is that the EP can put into the spotlight an issue that may otherwise not gain so much visibility on a European level.

The Committees in the European Parliament that can have a role in discussing anti-Semitism related issues are the Civil Liberties - Justice and Home Affairs Committee and the Human Rights subcommittee (to the Foreign Affairs Committee).

#### c) The European Court of Justice

The European Court of Justice (ECJ), as mentioned earlier, is the judicial forum of last resort when the legal action is initiated by the European Commission or other EU institution, EU member state or interested party who has legal standing. Similarly to the other institutions, the ECJ is bound by the same Staff Regulations and Code of Conduct that aim to ensure a high level of internal staff ethics.

An important case type needs to be mentioned, however: the so-called "preliminary ruling", where a member state court requests the ECJ to interpret a piece of EU legislation. Though this has very abstract and indirect relevance to tackling anti-Semitism, it may include cases such as provisions on religious neutrality or rules linked to Jewish dietary laws that may be relevant and require interpretation in line with the provision of the Treaty or Charter of Fundamental Rights as cited above.

#### d) Fundamental Rights Agency

The EU's Fundamental Rights Agency (FRA), based in Vienna, is an Agency that helps the policy making process. This Agency, however, does not have any policy-making powers itself, nor can it regulate in a way that the European Commission is empowered to do. The FRA does the following tasks that explain its inclusion in the list of EU institutions tackling Anti-Semitism:

- Collects and analyses data and information related to social trends, prejudices, breaches of fundamental rights in the EU's 28 member states

- It provides assistance and expertise to member state agencies, institutions and research programs covering issues on fundamental rights

- It has an important role in communicating the results of its findings, including social trends, and raising awareness of these issues

#### e) The European Ombudsman

The European Ombudsman's chief focus is "maladministration" by any EU institution, therefore if a tender applicant or an interested party who had dealings with the European Commission (including, for instance, a request to access a document) has not been treated according to the established procedures and rules, the Ombudsman can be called upon to investigate the issue and make sure that EU institutions live up to the standards and formal rules they have prescribed for themselves.

#### f) The European Public Prosecutor

Despite its name, this soon-to-be-established post will not have any bearing on the issue of anti-Semitism as the European Public Prosecutor will exclusively deal with fraud and abuse of EU funded projects.

#### g) The Council of Europe

The Council of Europe, based in Strasbourg, is not an EU institution and it is completely independent from any EU structure. It nevertheless aims to promote democracy, culture and openness in Europe, and thus has working groups and political monitoring bodies that monitor issues related to anti-Semitism.

The Council of Europe, given the lack of enforcement tools, is mostly able to raise awareness of a trend without having the formal powers to act against it. It does, however, support a large number of programs for schools, summer training courses, brochures and others, mostly aimed at youth audiences that help educate them about tolerance, fight prejudices and improve the cross-cultural dialogues.

The European Court of Human Rights (ECHR), the Council of Europe's court, however, has the power to impose fines on any of its 47 member states if it is found to have breached the European Convention for the Protection of Human Rights, even in individual cases.

#### h) EU Programs

Apart from the strictly institutional perspective, there are various EU-funded projects and programs that aim

to decrease the level of religious intolerance or aim to educate children and young audiences about prejudice-free thinking.

One of such programs is financed from the EU budget via the European Social Fund's Youth program. Its main goal is to "reject right-wing xenophobic attitudes and manifestations" through school education, providing vocational training and creation of education programs that integrate principles combating the above phenomena.

#### **IV. SUMMARY**

As demonstrated above, we looked at what European institutions can and cannot do to fight discrimination, prejudices and related challenges, such as anti-Semitism, that poison various segments of society. In essence, we can conclude that all 28 EU member states have by and large proper laws in place, and the various European treaties (such as the Treaty on European Union, the Treaty on the Functioning of the European Union, the Charter of Fundamental Rights and other instruments of the Council of Europe) also proclaim principles of non-discrimination, tolerance and related safeguards.

However, anti-Semitism lives mostly in the minds and not in the laws, which makes the role of institutions important only to the extent that they are able to come up with programs that fight against intolerance on national or even local levels, raise awareness about trends and tendencies, and do their utmost to help those who have been victims of such prejudice to be able to seek appropriate legal remedies even on European level if necessary.